end of East Confederate avenue, situate in the said borough of Gettysburg, Pa.—to the Committee on Military Affairs.

By Mr. McGUIRE of Oklahoma: A bill (H. R. 26395) granting an increase of pension to John Thornburgh—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26396) granting a pension to Mary C. McLaughlin—to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 26397) granting an increase of pension to Hugh L. W. Bearden—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26398) granting a pension to George W. Holland—to the Committee on Invalid Pensions.

By Mr. MORRISON: A bill (H. R. 26399) granting an increase of pension to John H. Girt—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26400) granting an increase of pension to John P. Bradfield—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26401) granting a pension to Eliza Jane Bundy—to the Committee on Invalid Pensions.

By Mr. SHACKLEFORD: A bill (H. R. 26402) granting a pension to Joseph Bourgerert—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26403) granting a pension to William Larimore—to the Committee on Invalid Pensions.

By Mr. SULLOWAY: A bill (H. R. 26404) granting a pension to Frank B. Hall—to the Committee on Invalid Pensions.

By Mr. THOMAS of Kentucky: A bill (H. R. 26405) for the relief of E. F. Miles—to the Committee on War Claims.

By Mr. WASHBURN: A bill (H. R. 26406) granting an increase of pension to Branch F. Ayers—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Telegram from Augusta Chamber of Commerce, Merchants and Manufacturers' Association, Augusta Cotton Exchange, and Georgia and Carolina Fair Association, in reference to appropriation for President's traveling expenses, and addressed to the Speaker—to the Committee on Appropriations.

By Mr. AMES: Papers to accompany House bill for the relief of Rose A. Merriam, widow of George P. Merriam—to the Committee on Invalid Pensions.

By Mr. ANSBERRY: Petition of International Brotherhood of Boiler Makers, favoring the passage of Senate bill 6702 and House bill 22066, relating to federal supervision of locomotive boilers—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Missionary Society of the Methodist Episcopal Church of Ottawa, Ohio, opposing the passage of House bill 24879—to the Committee on the District of Columbia.

Also, petition of Rinier Grange, No. 1406, Patrons of Husbandry, of Rinier, Ohio, for Senate bill 6931, for an appropriation of $500,000 for extension of work of the Office of Public Roads—to the Committee on Agriculture.

By Mr. ESCH: Petition of the La Crosse Board of Trade, La Crosse, Wis., favoring a national bureau of health—to the Committee on Interstate and Foreign Commerce.

By Mr. BARCHFELD: Paper to accompany bill for relief of William G. Lewis—to the Committee on Invalid Pensions.

By Mr. CANDLER: Paper to accompany bill for relief of estate of T. M. D. Coln—to the Committee on War Claims.

By Mr. FULLER: Petition of Downtown Merchants' Association, of San Francisco, Cal., favoring the selection of the city of San Francisco, Cal., for holding the proposed Panama exposition—to the Committee on Industrial Arts and Expositions.

Also, petition of Chicago Portland Cement Company, of Chicago, Ill., protesting against proposed increase of freight rates in western trunk-line territory—to the Committee on Interstate and Foreign Commerce.

By Mr. HILL: Petition of Central Labor Union of Danbury, Conn., in favor of Senate bill 5578 and House bill 15441, known as the eight-hour law—to the Committee on Labor.

Also, petition of Webetuck Grange, No. 86, Patrons of Husbandry, of Amenia Union, N. Y., asking that Senate bill 6049 be enacted into law, and favoring a national health bureau—to the Committee on Interstate and Foreign Commerce.

Also, petition of Nicholas Martin and others, of Norwalk, Conn., against a national bureau of health—to the Committee on Interstate and Foreign Commerce.

By Mr. McKINNEY: Petition of Canton Moline, No. 60, Patriarchs Militant, Independent Order of Odd Fellows, of Moline, Ill., favoring House bill 20677, for detail of officers for inspection of fraternal and patriotic military societies—to the Committee on Military Affairs.

By Mr. MOON of Tennessee: Papers to accompany bills for relief of Hugh L. W. Bearden and George W. Holland—to the Committee on Invalid Pensions.

By Mr. SHEFFIELD: Petition of the Rhode Island section of the American Chemical Society, in favor of House bill 22239—to the Committee on the Post-Office and Post-Roads.

By Mr. SPERRY: Resolutions of the Chamber of Commerce of New Haven, Conn., against House bill 11193, in relation to the merchant marine—to the Committee on the Merchant Marine and Fisheries.

By Mr. WASHBURN: Paper to accompany bill for relief of Branch F. Ayers—to the Committee on Invalid Pensions.

SENATE.

TUESDAY, *May 31, 1910.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The VICE-PRESIDENT resumed the chair.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

LAWS OF PORTO RICO.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, pursuant to law, the acts and resolutions passed by the fifth legislative assembly of Porto Rico, which was ordered to be printed and, with the accompanying document (S. Doc. No. 599), referred to the Committee on Pacific Islands and Porto Rico.

CLAIM OF CLEOBULE DOUCET.

The VICE-PRESIDENT laid before the Senate a communication from the chief justice of the Court of Claims, requesting that the findings in the case of Cleobule Doucet, administrator of the estate of Pierre Zepherin Doucet, deceased, be returned to the court for further consideration (S. Doc. No. 598), which was referred to the Committee on Claims and ordered to be printed.

CLAIM OF J. H. E. GUEST.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of J. H. E. Guest, administrator of the estate of Green Guest, deceased, *v.* United States (S. Doc. No. 597), which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

VESSEL SCHOONER "SALLY."

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the conclusions of fact and of law and opinion filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the court relating to the vessel schooner *Sally*, John Leech, master, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 621) to amend sections 2325 and 2326 of the Revised Statutes of the United States.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 5237) granting pensions to certain soldiers and sailors of wars other than the civil war, and to certain widows and dependent relatives of such soldiers and sailors.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5573) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and wars other than the civil war, and to certain widows of such soldiers and sailors.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing

votes of the two Houses on the amendments of the House to the bill (S. 6272) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and wars other than the civil war, and to certain widows and dependent relatives of such soldiers and sailors.

The message further announced that the House had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4179) authorizing the Omaha tribe of Indians to submit claims to the Court of Claims; further insists upon its amendments disagreed to by the Senate; asked a further conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. CAMPBELL, Mr. MCGUIRE, and Mr. LATTA managers at the further conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 870) to parole United States prisoners, and for other purposes, disagreed to by the Senate, agreed to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. PARKER, Mr. STERLING, and Mr. HENRY of Texas managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and they were thereupon signed by the Vice-President:

S. 8087. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors; and

H. R. 22549. Granting public lands to certain cities and towns in the States of Colorado for public park purposes.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the National Academy of Sciences, praying for the enactment of legislation providing for the establishment of a siesmological laboratory under the direction of the Smithsonian Institution, which was referred to the Committee on the Geological Survey.

Mr. BRISTOW presented a petition of sundry citizens of Kansas, praying for the passage of the so-called "boiler-inspection bill," which was referred to the Committee on Interstate Commerce.

He also presented a petition of sundry citizens of Kansas, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors into prohibition districts, which was referred to the Committee on the Judiciary.

He also presented sundry papers to accompany the bill (S. 8328) granting an increase of pension to Sidney J. Hazelbaker, which were referred to the Committee on Pensions.

Mr. PERKINS presented a memorial of the Chamber of Commerce of San Francisco, Cal., remonstrating against the adoption of any amendment to the fourth section of the present interstate-commerce law which will hamper the railroads in adjusting their rates to meet the competition of water carriers at seaports, which was ordered to lie on the table.

Mr. BRANDEGEE presented a petition of the town school committee of Meriden, Conn., praying that an appropriation be made for the extension of the field work of the Bureau of Education, which was referred to the Committee on Education and Labor.

He also presented a petition of the Billings & Spencer Company, of Hartford, Conn., praying that an appropriation be made for the extension of the work of the Office of Public Roads, Department of Agriculture, which was ordered to lie on the table.

Mr. PILES presented a petition of the Chamber of Commerce of Seattle, Wash., praying that an appropriation of $250,000 be made to enable the tariff board to begin its work of investigating tariff schedules, which was referred to the Committee on Appropriations.

He also presented a petition of Garden City Grange, No. 280, Patrons of Husbandry, of Snohomish, Wash., praying that an appropriation be made for the extension of the work of the Office of Public Roads, Department of Agriculture, which was ordered to lie on the table.

He also presented a petition of Local Union No. 362, International Union of Steam Engineers, of Everett, Wash., praying for the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of sundry members of the Ladies of the Maccabees of the World, of South Tacoma, Wash., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which was referred to the Committee on Post-Offices and Post-Roads.

REPORTS OF COMMITTEE ON CLAIMS.

Mr. BRISTOW, from the Committee on Claims, to whom were referred the following bills, submitted adverse reports thereon, which were agreed to, and the bills were postponed indefinitely:

A bill (S. 815) for the relief of Sanger & Moody (Report No. 763);

A bill (S. 2280) for the relief of Charles W. Johnston and of Harry C. Maull and Charles S. Morris, administrator of Elihu J. Morris, his sureties (Report No. 762); and

A bill (S. 6584) for the relief of Sanger & Moody (Report No. 764).

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and by unanimous consent, the second time, and referred as follows:

By Mr. JONES:

A bill (S. 8461) for the relief of the heirs of Ari Cantrell (with accompanying papers); to the Committee on Indian Depredations.

By Mr. BROWN:

A bill (S. 8462) granting a pension to Joseph P. Morris; to the Committee on Pensions.

By Mr. WETMORE:

A bill (S. 8463) for the relief of the Providence-Washington Insurance Company, of Providence, R. I.; to the Committee on Claims.

By Mr. GAMBLE:

A bill (S. 8464) granting an increase of pension to Milton Church; to the Committee on Pensions.

By Mr. BRADLEY:

A bill (S. 8465) for the relief of the estate of Malcolm McNeill, deceased;

A bill (S. 8466) for the relief of Mary R. Cammack and others; and

A bill (S. 8467) for the relief of Van Foreman and others; to the Committee on Claims.

A bill (S. 8468) granting an increase of pension to Greenberry Gabbard;

A bill (S. 8469) granting an increase of pension to Stephen G. Bowles; and

A bill (S. 8470) granting an increase of pension to Abel Pennington; to the Committee on Pensions.

By Mr. BEVERIDGE:

A bill (S. 8471) to amend an act entitled "An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment," approved May 30, 1908; to the Committee on Education and Labor.

By Mr. SMITH of Michigan:

A bill (S. 8472) to provide for the erection of a statue of Maj. Gen. George A. Custer in the city of Washington, D. C.; to the Committee on the Library.

By Mr. DICK:

A bill (S. 8473) granting an increase of pension to Andrew J. Wilson; to the Committee on Pensions.

By Mr. ELKINS:

A bill (S. 8474) for the relief of lock masters, lockmen, and other laborers and mechanics employed by the United States Government on the locks and dams of the Kanawha River in West Virginia; to the Committee on Claims.

By Mr. SHIVELY:

A bill (S. 8475) for the relief of William A. Forrest, administrator of the estate of John W. Forrest, deceased; to the Committee on Claims.

A bill (S. 8476) granting an increase of pension to Charles Nobles (with an accompanying paper);

A bill (S. 8477) granting an increase of pension to George W. Gibson; and

A bill (S. 8478) granting an increase of pension to Lambert McCombs (with accompanying papers); to the Committee on Pensions.

By Mr. OVERMAN (for Mr. TALIAFERRO):

A bill (S. 8479) granting an increase of pension to John D. Harrell (with accompanying papers); to the Committee on Pensions.

By Mr. LA FOLLETTE:

A joint resolution (S. J. Res. 106) to postpone pending raises in freight rates becoming effective, which was ordered to lie on the table.

AMENDMENT TO SUNDRY CIVIL APPROPRIATION BILL.

Mr. MARTIN submitted an amendment, proposing to increase the appropriation for topographic surveys in various portions of the United States from $350,000 to $355,000, intended to be proposed by him to the sundry civil appropriation bill, which

was referred to the Committee on Appropriations and ordered to be printed.

Mr. DIXON submitted an amendment providing that the limit of cost of the post-office and court-house at Great Falls, Mont., shall not exceed the sum of $215,000, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

COURT OF COMMERCE, ETC.

Mr. LA FOLLETTE submitted four amendments intended to be proposed by him to the bill (S. 6737) to create a court of commerce and to amend the act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes, which were ordered to lie on the table and be printed.

Mr. NEWLANDS submitted an amendment intended to be proposed by him to the bill (S. 6737) to create a court of commerce and amend the act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes, which was ordered to lie on the table and be printed.

Mr. SIMMONS submitted an amendment intended to be proposed by him to the bill (S. 6737) to create a court of commerce and to amend the act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes, which was ordered to lie on the table and be printed.

WITHDRAWAL OF PAPERS—KEPHART WALLACE.

On motion of Mr. BURNHAM, it was

Ordered, That the papers in the case of Kephart Wallace (S. 3429, 60th Cong.) be withdrawn from the files of the Senate, no adverse report having been made thereon.

ORDER OF BUSINESS.

The VICE-PRESIDENT. The morning business is closed, and the calendar is in order under Rule VIII.

Mr. SCOTT. I hope the Senate will allow me to call up two or three pension bills which are on the calendar and have been standing there for some time. It will take only a few minutes to dispose of them.

Mr. ELKINS. The fact is that the Senator from Oklahoma [Mr. OWEN]——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to his colleague?

Mr. SCOTT. I wish to get these bills through, if my colleague will allow me.

Mr. ELKINS. I object to that.

Mr. SCOTT. They are omnibus pension bills.

The VICE-PRESIDENT. Objection is made to the request of the Senator from West Virginia.

Mr. HEYBURN. I should like to make a parliamentary inquiry. Can an objection be made to the calendar en masse under Rule VIII when it is the regular order of business?

The VICE-PRESIDENT. The junior Senator from West Virginia asked unanimous consent to consider several bills out of order. The senior Senator from West Virginia objected. The calendar can not be objected to in toto.

Mr. HEYBURN. I only rose so that we might not forget that the calendar under Rule VIII is the regular order.

Mr. SCOTT. My colleague certainly will not gain anything, because I shall insist on the regular order, and that is the calendar under Rule VIII, until these bills are reached. He might as well allow the pension bills to be taken up now.

The VICE-PRESIDENT. The calendar is in order, under Rule VIII.

Mr. ELKINS. I understand that the Senator from Oklahoma [Mr. OWEN] by special order is to address the Senate just after the routine business this morning.

Mr. GALLINGER. By request.

Mr. ELKINS. By request.

The VICE-PRESIDENT. There was no special order agreed upon. The Senator from Oklahoma gave notice that he would desire to address the Senate this morning. The regular order is the calendar under Rule VIII.

Mr. BRADLEY. Mr. President, I wish to ask the indulgence of the Senate to call up——

Mr. SCOTT. Mr. President, in view of the fact that the Senator——

The VICE-PRESIDENT. The Senator from Kentucky has the floor.

Mr. BRADLEY. I am compelled to go to Kentucky to-day to be absent for several days, and I would be very glad to have disposed of the bill (S. 5035) granting cumulative annual leave of absence to storekeepers, gaugers, and storekeeper-gaugers, with pay.

The VICE-PRESIDENT. The Senator from Kentucky asks unanimous consent for the present consideration of the bill indicated by him.

Mr. ELKINS. I hope the Senator will not press that request. I could not yield to my colleague. I objected to the bills he wished to call up, and I shall have to object to this bill.

Mr. BRADLEY. I am asking it as a favor.

The VICE-PRESIDENT. Objection is made to the request of the Senator from Kentucky.

Mr. HEYBURN. I call for the regular order.

The VICE-PRESIDENT. The regular order is demanded. The Secretary will announce the first bill on the calendar.

Mr. ELKINS. I move that the Senate——

ADVANCES IN FREIGHT RATES.

Mr. LA FOLLETTE. I submit a resolution and ask for its present consideration.

The resolution (S. Res. 249) was read, as follows:

Senate resolution 249.

Whereas the railroads in official classification territory have announced that they will make effective at an early date a general advance in all class and commodity rates, and have recently advanced certain rates from 8 to more than 60 per cent, and have filed tariffs with the Interstate Commerce Commission, to become effective after June 1, advancing certain other rates from 8 to more than 30 per cent; and

Whereas shippers' associations in various parts of the country, after careful investigation, have protested against such advances upon the ground that the same are unreasonable; and

Whereas the fact that such increases are uniform by all railroads in the same territory, are identical in amount for the same service, and take effect at the same time, indicating that such advances are the result of traffic agreements in violation of law: Therefore be it

Resolved, That it is the sense of the Senate that the Attorney-General should proceed at once to institute actions enjoining such advances as have been and may be filed with the Interstate Commerce Commission, and should also institute prosecutions of the railroads filing such rates as being in violation of the act of Congress approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies."

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. ELKINS. If it is going to lead to debate I will object, because I want to get the rate bill before the Senate.

Mr. LA FOLLETTE. It will not take any more time to debate it now than it will later, offered as an amendment to the rate bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. GALLINGER. I ask that the first line or two be again read.

The VICE-PRESIDENT. Without objection, the Secretary will again read the first part of the resolution.

The Secretary again read the first clause of the resolution.

Mr. GALLINGER. That is all right. I do not object.

Mr. ELKINS. I object.

The VICE-PRESIDENT. The Senator from West Virginia objects, and the resolution goes over.

Mr. BEVERIDGE. I hope the Senator will not insist upon his objection.

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. The Senator from West Virginia objects.

Mr. LA FOLLETTE. I understand that. I wish to offer another resolution.

COURT OF COMMERCE, ETC.

Mr. ELKINS. I move that the Senate proceed to the consideration of Senate bill 6737—the unfinished business.

Mr. LA FOLLETTE. I suggest the absence of a quorum.

The VICE-PRESIDENT. The Senator from Wisconsin suggests the absence of a quorum. The Secretary will call the roll.

Mr. LA FOLLETTE. I will say to the Senator from West Virginia that he will make more progress with the bill if he gives a little consideration to these matters.

Mr. GALLINGER. Debate is not in order.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names.

Bacon	Clark, Wyo.	Heyburn	Perkins
Bailey	Clay	Hughes	Rayner
Beveridge	Crane	Jones	Scott
Borah	Crawford	Kean	Smith, Md.
Bradley	Cullom	La Follette	Smith, Mich.
Brandegee	Cummins	Lodge	Smith, S. C.
Briggs	Dick	Martin	Smoot
Bristow	Dixon	Nelson	Stephenson
Brown	Elkins	Newlands	Sutherland
Bulkeley	Fletcher	Nixon	Taylor
Burnham	Flint	Overman	Warren
Burrows	Frazier	Owen	Wetmore
Burton	Frye	Page	
Chamberlain	Gallinger	Paynter	
Clapp	Gamble	Percy	

The VICE-PRESIDENT. Fifty-seven Senators have answered to the roll call. A quorum is present.

Mr. ELKINS. I move that the Senate proceed to the consideration of Senate bill 6737.

The VICE-PRESIDENT. The Senator from West Virginia moves that the Senate proceed to the consideration of the bill

(S. 6737) to create a court of commerce and to amend the act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes.

Mr. LA FOLLETTE. Upon that question I should like to be heard.

The VICE-PRESIDENT. It is not debatable. The question is on agreeing to the motion.

Mr. LA FOLLETTE. I will be heard after it is decided.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ELKINS. I now yield to the Senator from Oklahoma by an understanding, at his request, as he wishes to address the Senate.

Mr. OWEN. Mr. President——

Mr. BEVERIDGE. The Senator can not yield by an understanding. He can not farm out the floor by an understanding.

Mr. BURROWS. The Senator from Oklahoma had given notice.

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. The Chair has recognized no one.

Mr. LA FOLLETTE. I understand that, and I do not understand it is the right of any Senator here to yield the floor to anybody.

Mr. BEVERIDGE. Not by an understanding.

The VICE-PRESIDENT. Certainly not, when an objection is made. It is not competent to yield the floor, except for an inquiry. It is competent for the Chair to recognize whomever he thinks first took the floor. The Chair recognizes the Senator from Oklahoma.

THE ELECTION OF SENATORS BY DIRECT VOTE OF THE PEOPLE.

Mr. OWEN. Mr. President, on the 21st day of May, 1908, in accordance with the wishes of the legislature of the State of Oklahoma, expressed by resolution of January 9, 1908, I introduced Senate resolution 91, providing for the submission of a constitutional amendment for the election of Senators by direct vote of the people.

Article 5 of the Constitution provides that Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to the Constitution or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments which, in either case, shall be valid when ratified by the legislatures of three-fourths of the several States or by conventions in three-fourths thereof, as the one or other mode of ratification may be proposed by Congress.

The reasons why the people wish this proposed reform are thoroughly well understood.

First. It will make the Senate of the United States more responsive to the wishes of the people of the United States.

Second. It will prevent the corruption of legislatures.

Third. It will prevent the improper use of money in the campaigns before the electorate by men ambitious to obtain a seat in the Senate of the United States.

Fourth. It will prevent the disturbance and turmoil of state legislatures and the interferences with state legislation by the violent contests of candidates for a position in the United States Senate.

Fifth. It will compel candidates for the United States Senate to be subjected to the severe scrutiny of a campaign before the people and compel the selection of the best-fitted men.

Sixth. It will prevent deadlocks, due to political contests in which various States from time to time have been thus left unrepresented.

Seventh, it will popularize government and tend to increase the confidence of the people of the United States in the Senate of the United States, which has been to some extent impaired in recent years.

Mr. President, as the State of Idaho points out, and as the State of New Jersey points out, in their resolutions herewith submitted, *the House of Representatives of the Congress of the United States has on four separate occasions passed by a two-thirds vote* a resolution proposing an amendment to the Constitution providing for the election of United States Senators by direct vote of the people.

And the Senate has, on each occasion, failed or refused to vote upon such resolution or to submit such constitutional amendment to the several States for their action, as contemplated by the Constitution of the United States.

On July 21, 1894, the House of Representatives, by vote of 141 to 50 (CONGRESSIONAL RECORD, vol. 26, p. 7783), and on May 11, 1898, by vote of 185 to 11 (CONGRESSIONAL RECORD, vol. 31, p. 4825), and on April 13, 1900, by vote of 242 to 15 (CONGRESSIONAL RECORD, vol. 33, p. 4128), and on February 13, 1902, by a viva voce vote, nem. con. (CONGRESSIONAL RECORD, vol. 35, p. 1722), has recorded the wishes of every congressional district of the United States, with negligible exceptions, in favor of this reform.

The Speaker of the Fifty-fifth Congress said, and Mr. Corliss, February 19, 1902, repeated the sentiment, "that this was a measure demanded by the American people, and that the Members of this House, representing directly the people, should pass this measure, and continue to pass it, and knock upon the doors of the Senate until it listens to the voice of the people." (CONGRESSIONAL RECORD, vol. 35, p. 1721.)

Is a unanimous vote of the House of Representatives an index to the wishes of the American people or is the will of the people of sufficient importance to persuade the Senate to act and comply with their repeatedly expressed wishes?

On May 23, 1908, I called attention of the Senate to the various resolutions passed by 27 States of the Union praying Congress and the Senate for this reform, and on behalf of my own State of Oklahoma I urged the Senate to act.

Over my protest the Senate referred this joint resolution 91 to the Committee on Privileges and Elections by the following vote:

The result was announced—yeas 33, nays 20, as follows:

YEAS—33.

Aldrich	Clark, Wyo.	Hale	Richardson
Allison	Crane	Heyburn	Smith, Md.
Bacon	Cullom	Hopkins	Stewart
Bankhead	Depew	Kean	Warner
Brandegee	Dick	Knox	Warren
Briggs	Dillingham	Lodge	Wetmore
Burnham	Foraker	Long	
Burrows	Gallinger	Nelson	
Carter	Guggenheim	Penrose	

NAYS—20.

Ankeny	Dixon	Newlands	Piles
Beveridge	Gore	Owen	Simmons
Borah	Johnston	Overman	Smith, Mich.
Brown	La Follette	Paynter	Stephenson
Clapp	McCreary	Perkins	Teller

NOT VOTING—39.

Bailey	Dolliver	Hansbrough	Platt
Bourne	du Pont	Hemenway	Rayner
Bulkeley	Elkins	Kittredge	Scott
Burkett	Flint	McCumber	Smoot
Clarke, Ark.	Foster	McEnery	Stone
Clay	Frazier	McLaurin	Sutherland
Culberson	Frye	Martin	Taliaferro
Curtis	Fulton	Milton	Taylor
Daniel	Gamble	Money	Tillman
Davis	Gary	Nixon	

(CONGRESSIONAL RECORD, May 23, 1908, p. 7115.)

This vote meant the defeat of the proposed constitutional amendment.

The Senator from Michigan [Mr. BURROWS], chairman of the Committee on Privileges and Elections, never gave any hearing on this resolution and never reported it, but allowed the Sixtieth Congress to expire without taking any action in regard to it, notwithstanding the legislature of the State of Michigan had theretofore by joint resolution expressly favored the submission of an amendment for the election of Senators by direct vote.

On July 7, 1909, I introduced the same resolution again in the present Congress as Senate joint resolution 41.

I trust I may not be regarded as inconsiderate, too hasty, or too urgent, if after waiting over two years for a report by the Senator from Michigan, I now call upon him to perform his duty to the people and respond to their repeatedly expressed wishes in this matter, or else that he frankly refuse to do so.

Mr. President, the present Committee on Privileges and Elections of the Senate is composed of the following Members, 8 Republicans and 5 Democrats:

JULIUS C. BURROWS, of Michigan; CHAUNCEY M. DEPEW, of New York; ALBERT J. BEVERIDGE, of Indiana; WILLIAM P. DILLINGHAM, of Vermont; JONATHAN P. DOLLIVER, of Iowa; ROBERT J. GAMBLE, of South Dakota; WELDON B. HEYBURN, of Idaho; MORGAN G. BULKELEY, of Connecticut; JOSEPH W. BAILEY, of Texas; JAMES B. FRAZIER, of Tennessee; THOMAS H. PAYNTER, of Kentucky; JOSEPH F. JOHNSTON, of Alabama; DUNCAN U. FLETCHER, of Florida.

Ten of these 13 States favor the choice of Senators by the vote of the people, but I fear the Senators from Vermont, New York, and Connecticut, whose States are not officially committed, may unduly influence the committee, paralyze its activities, and prevent a favorable answer to the petition or wishes of the 37 other States.

Eight Republican Senators, as a practical matter, control the policy of this committee, and four of these can prevent action under the present very enlightened system of organized party management of the majority party, which is under an influence that is almost occult, and a management that seems excellently

well devised to control all committee action by a majority of a majority plan that enables four to defeat thirteen on the Committee on Privileges and Elections. This is an example of what is called "machine politics."

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Idaho?

Mr. OWEN. Certainly.

Mr. HEYBURN. I want to correct the impression in the mind of the Senator from Oklahoma that the State of Idaho favors the election of United States Senators by direct vote of the people. It does not. The State of Idaho is a Republican State, and the Republican party of Idaho has never favored such a proposition.

Mr. OWEN. The Senator from Michigan [Mr. BURROWS] or the Senator from Idaho [Mr. HEYBURN] can thus defeat or procure action if they wish to by cooperating with the other Republican Senators whose States—Indiana, South Dakota, and Iowa—like Michigan and Idaho, have sought this reform.

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oklahoma yield further to the Senator from Idaho?

Mr. OWEN. I do.

Mr. HEYBURN. It is only fair to say that the Senator from Idaho has no inclination whatever to promote that scheme of government.

Mr. OWEN. The five Democratic Senators whose people believe in this policy I do not question would willingly cooperate if permitted to do so.

It seems unavoidable, however, to ask the Senate to instruct the committee if any action is to be expected.

I can not believe that the Senate is conscious of the widespread public demand for the election of Senators by direct vote of the people. I therefore submit the positive evidence of the action taken by the various States of the Union, showing the following 37 States to have expressed themselves (in one form or another) favorably to the election of Senators by direct vote of the people, over three-fourths of the States of the Union: Alabama, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming.

Mr. HEYBURN and Mr. BRADLEY addressed the Chair.

The VICE-PRESIDENT. Does the Senator from Oklahoma yield?

Mr. HEYBURN. I desire to call attention to the fact, inasmuch as I heard the name of Idaho——

The VICE-PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Idaho?

Mr. OWEN. I yield to the Senator from Idaho.

Mr. HEYBURN. I merely want to get the record straight. I heard the name of Idaho mentioned in connection with the States that had announced in favor of this heresy. I desire to say that the legislature of Idaho, as a rule, is sane, but there have been times when it was not.

Mr. OWEN. In due course I shall read the language of the legislature of the State of Idaho. I now yield to the Senator from Kentucky.

Mr. BRADLEY. Mr. President, I want to say that I do not remember certainly about the State of Kentucky.

Mr. OWEN. I will give the evidence in a few moments.

Mr. BRADLEY. The legislature of Kentucky may have passed a resolution favoring that idea, but I can say of the legislature of Kentucky that it is like the legislature of Idaho—it is not always sane, and I might say that most usually it is not sane. [Laughter.]

Mr. OWEN. I shall not take issue at present with the Senator from Kentucky or the Senator from Idaho as to the sanity of the representatives of the people in the legislature of Kentucky or of Idaho.

Mr. PAYNTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oklahoma yield to the senior Senator from Kentucky?

Mr. OWEN. I yield to the Senator from Kentucky.

Mr. PAYNTER. I should like to know if my colleague from Kentucky, when he said the legislature of Kentucky was not always sane, had reference to the legislature that assembled about two years ago. [Laughter.]

Mr. BRADLEY. I had not; but I did have reference to the legislature that elected my colleague. [Laughter.]

Mr. OWEN. The fuller details relative to primary elections will be found in the work Primary Elections, a Study of the History and Tendencies of Primary Election Legislation, by C. Edward Merriam, associate professor of political science in the University of Chicago, 1908.

Only nine States—New England, New York, Delaware, and West Virginia—have failed to definitely act in favor of the election or selection of Senators by direct vote of the people, and even in these States the tendency of the people is strongly manifested toward such selection of Senators.

In West Virginia they have primaries in almost all of the counties, instructing members of the legislature as to the election of Senators.

In Delaware the election of the members of the legislature carries with it an understanding as to the vote of the member on the senatorship.

In Massachusetts the legislature, through the house of representatives, has just passed a resolution favorable to this constitutional amendment and is now considering the initiative and referendum.

Maine has recently adopted the initiative and referendum—the people's rule.

It is obvious that in Maine the question of who shall be Senator is entering vigorously into the question of the election of members of the legislature, and commitments are demanded of candidates for the legislature; and so in greater or less degree even in some other Northeastern States, which are not definitely committed to the election of Senators by direct vote of the people, a similar method is followed, which, in effect, operates as an instruction, more or less pronounced, in favor of a candidate for the Senate.

In the five remaining States, New York, New Hampshire, Vermont, Connecticut, and Rhode Island, a majority of the people unquestionably favor the election of Senators by direct vote of the people, which is demonstrated by the approval of the Democrats of these States of this policy and in addition by the various nonpartisan organizations, the National Grange, American Federation of Labor, and so forth, and by the attitude of many individual Republicans, who are not sufficiently strong, however, to control the party management.

In the effort I made to have the amendment to the Constitution submitted to the various States on May 23, 1908 (S. J. Res. 91), it was obvious that I had not the sympathy of those who control the Senate and no vote from a Northeastern State.

I had, in fact, the active opposition of the Senator from Rhode Island [Mr. ALDRICH], the Senator from Massachusetts [Mr. LODGE], the Senator from New Jersey [Mr. KEAN], the Senator from Maine [Mr. HALE], the Senator from Pennsylvania [Mr. PENROSE], the Senator from New York [Mr. DEPEW], the leaders of the Republican party in the Senate. The Senator from Massachusetts and the Senator from Rhode Island and the Senator from New Jersey actually tried to prevent my obtaining a vote, resorting to the small parliamentary device of asserting or suggesting that I was asking unanimous consent for a vote after I had moved the Senate to take the vote. If I had acceded to this untrue assertion consent would have been denied and a vote thus prevented. What does this fear of a record vote mean?

I do not in the least complain of such parliamentary tactics, nor of the opposition. I merely think it my duty to call the attention of the country to it, that it may not be doubted that the Republican leaders of the Senate are opposed to giving the people of the United States the power to choose their own Senators.

Mr. DIXON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Montana?

Mr. OWEN. I do.

Mr. DIXON. I well remember the occasion to which the Senator refers. Will he be kind enough to inform the Senate how the vote stood, politically speaking, for and against his resolution? Did not a majority of the Democratic Senators also vote against the resolution?

Mr. OWEN. Mr. President, has the Senator finished his question?

Mr. DIXON. Yes.

Mr. OWEN. I have inserted already in the RECORD the entire vote, showing 3 Democrats and 30 Republicans opposed, with 9 Democrats and 11 western Republicans favoring action on my resolution.

The right of the people to elect Senators ought not to be denied, and the party leaders who are unwilling to trust the people to elect Members of the Senate ought not to be trusted

with power, because the Senate can block and actually does block every reform the people desire.

The Senate has frequently been used to obstruct the will of the people, and especially the will of the people to elect Senators by direct vote.

I had then and I will have to-day the efficient opposition of the Republican managers of the Senate, who do not listen to the voice of the people, even if they believe in it. The Senator from Rhode Island, for example, the acknowledged leader, has an environment that unfits him to believe in the wisdom of popular government, because in Rhode Island, under an unwise and archaic mechanism the government of the State is said to be controlled by about 11 per cent of its voters and what might fairly be called a party machine, which is under the powerful domination of commercial interests. I do not say this in any sense as a reproof, because I believe each State must determine its own management, but as an historical observation, which I think is accurately made, and as showing the important need of improvement in our system of government.

The Senator from Rhode Island, in answer to my presentation of the resolutions passed by the various 27 States, asked the following illuminating question of me:

Mr. ALDRICH. Does the Senator from Oklahoma understand that a Senator is bound to vote according to the instructions of his legislature?

While I answered in the negative, as a mere legal proposition, nevertheless I do think that when the opinion of the people of a State is thoroughly well made up a Senator ought not only to be bound by it, but that he ought to feel glad to carry into effect the will of the people whom he represents, and ought not to set up for himself a knowledge or an understanding greater than that of the people of the entire State who have sent him as their representative. I believe that the will of the people is far more nearly right, in the main, than the will of any individual statesman who is apt to be honored by them with a transitory seat in the Senate; that the whole people are more apt to be safe and sane, more apt to be sound and honest than a single individual. At all events, I feel not only willing, but I really desire to make effective the will of the people of my State. I believe in popular government, and I believe that the people are more conservative, more "safe and sane," and more nearly apt to do right in the long run than ambitious statesmen temporarily trusted with power.

I will submit, Mr. President, the direct evidence and record of the public opinion of the people of the United States as expressed through their legislatures, or by the voluntary act of party regulations in instructing candidates for the legislature on the question of the election of United States Senators, or by primary laws as far as they apply.

It will be thus seen that Democratic States and Republican States alike, west of the Hudson River, have acted favorably in this matter practically without exception. Only eight or nine States have failed to act, and I do not doubt that if the voice of the people of these States of New England, of New York, Maryland, and Delaware could find convenient expression, free from machine politics, every one of them would favor the election of Senators by direct vote, and would favor the right of the people to instruct their representatives in Congress and in the Senate, a right which they enjoyed from the beginning of the American Republic down to the days when this right was smothered and destroyed by the convention system of party management.

Not only the States have acted almost unanimously in favor of this right of the people, but all the great parties of the country have declared in favor of it, except the Republican party, and this party would have declared for it except for the overwhelming influence and domination of machine politics in the management of that party and the prevalence of so-called boss influence. And this is demonstrated by the fact that the large majority of the Republican States, by the resolutions or acts of their legislatures, have declared in favor of it, and that several times the House of Representatives, when Republican, by a two-thirds vote, passed a resolution to submit such a constitutional amendment.

The trouble is the machine has gotten control of the Republican management of the Senate and can thus block every reform the people want. The insurgents insurge in vain.

If I remember correctly, the Senator from Wisconsin [Mr. LA FOLLETTE], at the last national Republican convention, raised this issue on the floor of the convention, and the proposal to put in the Republican platform the election of Senators by direct vote of the people was defeated by the powerful influence of a political machine, which, on that occasion, manifested itself in the delegates there present—a machine so obviously a machine as to excite the term of derision—"the steam roller." The "steam roller" is not an emblem of representative free government of a free people.

Mr. CHAMBERLAIN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Oregon?

Mr. OWEN. Yes.

Mr. CHAMBERLAIN. In that connection, is it not a fact that, notwithstanding the action of the national Republican convention, President Taft, in his letter of acceptance, expressed his belief in the doctrine of the election of Senators by direct vote of the people?

Mr. OWEN. I believe that is true, and I believe that the great body of the Republican citizens of the country believe in it as much as I do. The great body of our people are perfectly upright and straightforward, no matter what party they belong to.

Mr. GALLINGER. Will the Senator permit me?

The VICE-PRESIDENT. Does the Senator from Oklahoma yield to the Senator from New Hampshire?

Mr. OWEN. I yield.

Mr. GALLINGER. Will the Senator from Oregon give us that extract from the letter of acceptance? I have forgotten it.

Mr. OWEN. With the consent of the Senate, I will insert it in my remarks, so that it will appear in the RECORD.

Mr. GALLINGER. I should like to have it read now.

Mr. CHAMBERLAIN. I simply state it now entirely from memory. I have not it with me, but I recollect very distinctly that there was an expression from the President favorable to that proposition.

Mr. OWEN. Mr. President, I have great personal respect for very many of the representatives of the great party the control of which by machine methods I am assailing on the floor of this body, and do not wish to appear to say anything that would imply the contrary. I am assailing a bad system of government, which leads to evil, and not assailing individuals, or desiring to do so.

I do not approve machine methods in the Senate, in the House, or in the management of parties, because it leads to absolute bad government and gives peculiar opportunity.

The *Democratic party*, representing about half of the voters of the United States (6,409,104 voters), in its national platform adopted at Denver, Colo., July 10, 1908, says:

We favor the election of United States Senators by direct vote of the people, and regard this reform as the gateway to other national reforms.

In like manner the Democratic national platform in 1900 had declared for—

Election of United States Senators by the direct vote of the people, and we favor direct legislation wherever practicable.

And in 1904 repeated the doctrine:

We favor the election of United States Senators by the direct vote of the people.

The platform of the *Independence party*, adopted at Chicago, Ill., July 28, 1908, declared for direct nominations generally, and further made the following declaration:

We advocate the popular election of United States Senators and of judges, both state and federal, * * * and any constitutional amendment necessary to these ends.

The platform of the *Prohibition party*, adopted at Columbus, Ohio, July 16, 1908, made the following its chief plank after the prohibition question, to wit:

The election of United States Senators by direct vote of the people.

The platform of the *New York Democratic League*, adopted at Saratoga, N. Y., September 10, 1909, declares for the—

Election of United States Senators by the direct vote of the people.

The platform of the *People's party* at Sioux Falls (1900) contained the following declaration:

We demand that United States Senators be elected by direct vote of the people.

The *American Federation of Labor*, consisting of 118 national and international unions, representing, approximately, 27,000 local unions, 4 departments, 38 branches, 594 city central unions, and 573 local unions, with an approximately paid membership of 2,000,000 men, representing between eight and ten millions of Americans, with 245 papers, have declared repeatedly in favor of the election of Senators by direct vote of the people.

The *National Grange*, comprising the Association of Farmers in the Northeast and in Central States, including nearly every farmer in Maine and in the New England States, and in Pennsylvania and Ohio and Michigan, the *Society of Equity* and the *Farmers' Educational and Cooperative Union* of the West and South, and altogether representing the organized farmers of the

entire United States, have declared in favor of the election of Senators by direct vote of the people. In this group of people our census of 1900 disclosed 10,438,218 adult workers and probably 45,000,000 people.

The State of Iowa in a joint resolution of April 12, 1909, makes the following statement:

Whereas the failure of Congress to submit such amendment to the States has made it clear that the only practicable method of securing submission of such an amendment to the States is through a constitutional convention to be called by Congress upon the application of the legislatures of two-thirds of all the States—

And the legislature of Iowa therefore resolved in favor of a constitutional convention, in effect, because of the neglect and refusal of the Senate of the United States to perform its obvious duty in the premises, the lower House having, by a two-thirds vote on four previous occasions, passed a resolution providing for the submission of such a constitutional amendment.

In the speech of the Hon. William H. Taft accepting the Republican nomination for the office of President of the United States at Cincinnati, Ohio, on July 28, 1908, he said:

With respect to the election of Senators by the people, personally I am inclined to favor it, but it is hardly a party question. A resolution in its favor has passed a Republican House of Representatives several times, and has been rejected in a Republican Senate by the votes of Senators from both parties. It has been approved by the legislatures of many Republican States. In a number of States, both Democratic and Republican, substantially such a system now prevails.

The President justly says it is hardly a party question, and that personally he is inclined to favor it; that a resolution in its favor has passed a Republican House of Representatives several times, but has been rejected in a Republican Senate by votes of Senators from both parties; that it has been approved by the legislatures of many Republican States; nevertheless, it is perfectly obvious to the country that any action by the Senate in favor of complying with the will of the people of the United States in this connection will be rejected. I naturally ask, under the circumstances, since the Democratic party is fully committed to it, since many Republican States favor it, since a Republican House of Representatives has passed a resolution in its favor several times, since a Republican President is inclined to favor it, Why can the people get no action? I naturally ask under the circumstances, Do the people rule, or are they ruled by machine rule unduly influenced by commercial interests?

This expression of the disappointment of Iowa in the Senate of the United States is emphasized in a more vigorous manner by the platform of the Socialist party adopted at Chicago, Ill., May 13, 1908, which submitted as one of their political demands:

The abolition of the Senate. (Votes, 420,793.)

A declaration of political opinion that I am informed was reiterated in the new platform adopted on May 28, 1910—only three days ago.

Mr. President, the Senate of the United States is one of the substantial bulwarks of the Government against sudden popular passion or hasty opinions of the people. Its strength in this particular is well known.

Its weakness is in disregarding the matured will of the people of the United States in matters of national importance, obstructing national reform, and being regarded by the people as too greatly influenced by organized special interests against the policies needed and desired by the people.

I think it is no exaggeration to say that nine-tenths of the people of the United States are in favor of the election of United States Senators by direct vote of the people. I shall therefore move at the conclusion of my remarks that the Committee on Privileges and Elections be instructed to report Senate joint resolution 41, introduced by me on July 7, 1909, as follows, to wit:

Senate joint resolution 91, proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which shall, immediately after the passage of this resolution, be submitted by the President of the United States to the governors of the several States of the Union, and when ratified by three-fourths of the state legislatures, such article shall be valid to all intents and purposes as a part of the said Constitution, namely:

"ART. 16. The Senate of the United States shall be composed of two Senators from each State, chosen by the electors thereof for six years, and each Senator shall have one vote; and the electors in each State shall have the qualifications requisite for electors of Members of the House of Representatives. They shall be divided as equally as may be into three classes, so that one-third may be chosen every second year, and if vacancies happen, by resignation or otherwise, the governor may make temporary appointments until the next regular election in such State. No person shall be a Senator who shall not have attained the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an elector of the State for which he shall be chosen. The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided. The Senate shall choose their own officers, and also a President pro tempore in the absence of the Vice-President, or when he shall exercise the office of the President of the United States."

Mr. HEYBURN. Will the Senator permit me to interrupt him here?

The VICE-PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Idaho?

Mr. OWEN. Yes.

Mr. HEYBURN. The Senator said a moment ago that the Senate was the bulwark against popular clamor, and then he suggests that the popular clamor of the country demands this action. Shall the Committee on Privileges and Elections determine which constitutes popular clamor, undertake to sift it down? What is it the committee is expected to do?

Mr. OWEN. They are expected to comply with the registered will of the great body of the American people.

Mr. HEYBURN. Is that the popular clamor the Senator referred to? If so, the Senate——

Mr. OWEN. I will answer the Senator's questions, and one question at a time.

Mr. HEYBURN. If so, the Senate is to stand as a bulwark against that.

Mr. OWEN. I have no objection to the Senator recording his views in this particular in the body of my speech. I leave his views on this question to the people of Idaho.

Mr. HEYBURN. I left it to them. I would say here, I left it with them, with the plain, square declaration that I was against it, and if they wanted a man who was for it they could send somebody else down here.

Mr. OWEN. When a matter has been long entertained by the people of the United States, when legislature after legislature, year after year, after consideration of this matter, after debate, one after another registers its will in favor of an improved system of government, it can no longer with any propriety be called "popular clamor," a term used by the Senator from Idaho and improperly attributed by him to me. It is the recorded will of the people separate and apart from clamor, deliberately entered into State by State, and it is entitled to be complied with and not derided as popular clamor.

For the obvious purpose of preventing the submission of the constitutional amendment for the election of United States Senators by direct vote of the people, as proposed by me May 21, 1908 (S. Res. 91), the Senator from New York [Mr. DEPEW] on May 23, 1908 (RECORD, p. 7115), submitted the following proposal as an amendment to the proposed constitutional amendment at that time before the Senate, to wit:

The qualifications of citizens entitled to vote for United States Senators and Representatives in Congress shall be uniform in all the States, and Congress shall have power to enforce this article by appropriate legislation and to provide for the registration of citizens entitled to vote, the conduct of such elections, and the certification of the result.

The transparent purpose of this proposed amendment was to prevent the submission of Senate joint resolution 91 for the election of Senators by direct vote of the people, as the Senator from New York well knew that Senators could not agree that their States should relinquish their right to control the election in their own borders for any purpose whatever. His proposal, therefore, knowing his amendment to be impossible, is merely an obvious strategy of obstruction, showing a purpose on his part not to establish his proposed amendment, which he knew to be impossible, but to defeat the main proposition of election of Senators by direct vote and to obstruct popular government.

The Senator from Pennsylvania [Mr. PENROSE] offered a similar obstruction in the following proposed amendment, which he well knew would not be agreed to, because there was no public demand for it, and because the small States by which Pennsylvania is surrounded—Delaware, New Jersey, Maryland, West Virginia, and the New England States—would never agree to it, and because he knew no one wished to enlarge the Senate as a body. The amendment proposed by the Senator from Pennsylvania [Mr. PENROSE] is as follows:

ART. 16. The Senate of the United States shall be composed of two Senators from each State, and each State shall have additional Senators in proportion to its population, based upon a proportionate excess of population beyond that of the State having the lowest population in the last decennial census, but no State shall have more than 15 Senators.

Mr. President, neither of these proposals, the one by the Senator from New York [Mr. DEPEW] nor the one by the Senator from Pennsylvania [Mr. PENROSE], have ever been heard of since they were offered as an amendment to my proposal, joint resolution 91 of the last Congress. I call the attention of the Senators again to this matter, so that they may not lose an opportunity to put their views on record for the information of the people of the United States, *who shall thoroughly understand the management and purpose of those in*

control of the affairs of the Republican party, and therefore in control of government.

Mr. President, I now submit the resolutions or abstract of laws of 37 States, over three-fourths of the States of the Union, which have shown themselves as favoring election of Senators by direct vote of the people or by direct nominations, either by these resolutions or by actual practice in primaries.

I know that the leaders of the Republican party in the United States Senate will refuse to comply with the express desire of over three-fourths of the States in this matter, but they ought not to be understood by the people of the United States to have done this in ignorance, and for that reason I propose to insert in the RECORD the attitude of the 37 States that favor the election of Senators by direct vote of the people, and merely ask the simple question:

"Do the people rule?"

As it would take considerable time to read all these resolutions, I ask the consent of the Senate to insert them without reading except in so far as they may be needed.

The VICE-PRESIDENT. Without objection, the request is granted.

The matter referred to is as follows:

ALABAMA.

House joint resolution 36. By Mr. Bulger.

Whereas Article V of the Constitution of the United States provides that whenever two-thirds of both Houses (of Congress) shall deem it necessary, the Congress shall propose amendments to the Constitution; or, on application of the legislatures of two-thirds of the several States, shall call a convention proposing amendments, which in either case shall be valid to all intents and purposes; and

Whereas the legislatures of 27 States have applied to the Congress of the United States for the submission to the States of an amendment to the Constitution providing for the election of United States Senators by direct vote of the people: Therefore be it

Resolved by the house of representatives of the legislature of Alabama (the senate concurring), That the Sixty-first Congress of the United States is requested, and by this resolution application is made by the legislature of the State of Alabama to the Congress of the United States in its sixty-first session, to submit to the several States an amendment to the Constitution providing for the election of United States Senators by a direct vote of the people.

Resolved further, That a copy of this resolution be certified by the clerk of the house and secretary of the senate to the Speaker of the House and the President of the Senate of the United States.

We, Cyrus B. Brown, clerk of the house of representatives of the legislature of Alabama, special session, 1909, and James A. Kyle, secretary of the senate of Alabama, special session, 1909, do hereby certify that the page hereto attached contains a true, accurate, and literal copy of house joint resolution No. 36, introduced in the legislature of Alabama by Hon. Thomas L. Bulger, representative from Tallapoosa County, Ala., as the same appears of record in our respective offices. We do further certify that the said house joint resolution No. 36 has been adopted by the house of representatives and senate of Alabama at the special session of the legislature of Alabama for 1909.

Witness our hands this 10th day of August, A. D. 1909, and of the Independence of the United States of America the one hundred and thirty-fourth year.

CYRUS B. BROWN,
Clerk of the House of Representatives of Alabama.
J. A. KYLE,
Secretary of the Senate of Alabama.

The people of Alabama nominate United States Senators by voluntary party regulations. (Primary laws; optional; state wide; direct; 1903, p. 356.)

Arizona primary laws, 1905, chapter 68. Mandatory; state wide; convention system.

ARKANSAS.

House concurrent resolution No. 17.—Making an application to the Congress of the United States to call a convention to propose an amendment to the Constitution of the United States to provide for the election of United States Senators by a direct vote of the qualified electors of the several States.

Be it resolved by the house of representatives and senate of the general assembly of the State of Arkansas, That the legislature of the said State of Arkansas, on behalf of the said State, hereby make application, in accordance with the provisions of Article V of the Constitution of the United States, to the Congress to call a convention to be composed of delegates from the several States of the Union, which convention when assembled shall propose as an amendment to the said Constitution a provision whereby Members of the United States Senate shall be elected by a direct vote of the qualified electors of the several States.

That a certified copy of this resolution shall be immediately transmitted by the governor to the President of the United States, to be by him presented to the Congress of the United States.

Approved April 25, 1901.

The people of Arkansas nominate United States Senators by voluntary party regulations. (Primary laws, 1905, chap. 328. Optional; rudimentary.)

CALIFORNIA.

STATE OF CALIFORNIA, *Department of State:*

I, C. F. Curry, secretary of state of the State of California, do hereby certify that I have carefully compared the annexed copy of Senate joint resolution No. 2, Statutes of 1900, with the original now on file in my office, and that the same is a correct transcript therefrom and of the whole thereof. Also, that this authentication is in due form and by the proper officer.

Witness my hand and the great seal of State, at office in Sacramento, Cal., the 10th day of April, A. D. 1908.

[SEAL.] C. F. CURRY, *Secretary of State.*
By J. HOESCH, *Deputy.*

Chapter VII—Senate joint resolution No. 2—Relative to the election of United States Senators by direct vote of the people.

Whereas section 3 of Article I of the Constitution of the United States provides that "the Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years;" and

Whereas the present system for the election of United States Senators is subject to severe public criticism and divided public opinion arising from various causes: Therefore, be it

Resolved by the senate of the State of California, and the assembly, jointly, That our Senators in Congress be instructed, and our Representatives be requested, to vote for the submission of an amendment to the Constitution of the United States providing for the election of Senators by the direct vote of the electors of the respective States.

Resolved, That a copy of these resolutions be transmitted to our Senators and Representatives in Congress.

THOS. FLINT, Jr.,
President pro tempore of the Senate.
ALDEN ANDERSON,
Speaker of the Assembly.

Attest:
C. F. CURRY, *Secretary of State.*

The people of California nominate United States Senators by direct nomination through primary. (Primary laws. Mandatory in cities over 7,500, elsewhere optional; 1901, chap. 198; 1903, chap. 44; 1905, chaps. 179, 366; 1907, chaps. 340, 352.)

COLORADO.

An act requesting the Congress of the United States to call a convention for proposing amendments to the Constitution of the United States, and urging an amendment to section 3, Article I, of the Constitution of the United States, which amendment shall provide for the election of United States Senators by a direct vote of the people of each State.

Be it enacted by the general assembly of the State of Colorado:

SECTION 1. Pursuant to Article V of the Constitution of the United States, application is hereby made to the Congress of the United States by the State of Colorado and the legislature of said State of Colorado to call a convention for proposing amendments to the Constitution of the United States.

SEC. 2. The general assembly of the State of Colorado desires to present and urge before the convention to be called, as provided in section 1 of this act, an amendment to section 3, Article I, of the Constitution of the United States, which shall provide for choosing Senators of the United States by the voters of each State, in lieu of the provision of said section 3, Article I, which requires that Senators of the United States shall be chosen in each State by the legislature thereof.

SEC. 3. The secretary of the State of Colorado shall transmit one copy of this act to the President of the United States, one copy to the President of the Senate of the United States, one copy to the Speaker of the House of Representatives of the United States, and one copy to the governor of each State, to the end that appropriate action may be had and taken by the Congress of the United States whenever and as soon as two-thirds in number of the States of this Union shall make similar application.

Approved April 1, 1901.

I, Alfred C. Montgomery, secretary to the governor, State of Colorado, do hereby certify that the above and foregoing is a full, true, and complete copy of senate bill No. 13, by Senator Parks, asking for a constitutional convention to amend the Constitution of the United States providing for the election of United States Senators, as the same is found on pages 115 and 116, in the Session Laws of Colorado, 1901.

ALFRED C. MONTGOMERY.

Colorado primary laws, 1887, page 347. Mandatory; state wide; rudimentary.

Connecticut primary laws, 1905, chapter 273; 1907, special acts, chapter 321. Rudimentary general law; optional direct primary law for Manchester.

Delaware primary laws, 1897, chapter 393; 1903, chapter 285. Mandatory; local; direct or indirect.

FLORIDA.

The people of Florida directly nominate United States Senators under protection of law of 1901. (Florida primary laws, 1903, chap. 5014; 1905, chap. 100; 1907, chap. 5613. Optional; state wide; direct or indirect.)

GEORGIA.

The people of Georgia, by voluntary party regulation through a primary protected by law, instruct the legislature in the selection of Senators. (Georgia primary laws, 1890–91, p. 210; 1900, p. 40; 1904, p. 97. Rudimentary.)

Mr. OWEN. I will read the resolution of Idaho, however:

IDAHO.

STATE OF IDAHO, *Department of State:*

I, Robert Lansdon, secretary of state of the State of Idaho, do hereby certify that the annexed is a full, true, and complete transcript of senate joint memorial No. 2 by committee on privileges and elections, which was filed in this office the 27th day of February, A. D., 1901, and admitted to record.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State. Done at Boise City, the capital of Idaho, this 14th day of March, A. D. 1908.

[SEAL.] ROBERT LANSDON,
Secretary of State.

Mr. HEYBURN. Is that the memorial of Idaho which is being read?

Mr. OWEN. I am about to read it now:

Joint memorial No. 2.—Requesting Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States, which amendment shall provide for the election of President, Vice-President, and United States Senators by direct vote of the people.

Whereas a large number of the state legislatures have at various times adopted memorials and resolutions in favor of election of President, Vice-President, and United States Senators by popular vote; and

Whereas the National House of Representatives has on four separate occasions within recent years adopted resolutions in favor of this proposed change in the method of electing the President, Vice-President, and United States Senators, which were not adopted by the Senate; and

Whereas Article V of the Constitution of the United States provides that Congress, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, and believing there is a general desire upon the part of the citizens of the State of Idaho that the President, Vice-President, and United States Senators should be elected by a direct vote of the people: Therefore,

Be it resolved, That the legislature of the State of Idaho favors the adoption of an amendment to the Constitution which shall provide for the election of President, Vice-President, and United States Senators by popular vote, and joins with other States of the Union in respectfully requesting that a convention be called for the purpose of proposing an amendment to the Constitution of the United States, as provided for in Article V of the said Constitution, which amendment shall provide for a change in the present method of electing President, Vice-President, and United States Senators, so that they can be chosen in each State by a direct vote of the people.

Resolved, That a copy of this joint resolution and application to Congress for the calling of a convention be sent to the secretary of state of each of the United States, and that a similar copy be sent to the President of the United States Senate, the Speaker of the House of Representatives, and our Representatives in Congress.

This senate joint memorial passed the senate on the 14th day of February, 1901.

THOS. F. TERRELL,
President of the Senate.

This senate joint memorial passed the house of representatives on the 21st day of February, 1901.

GLENN P. MCKINLEY,
Speaker of the House of Representatives.

This senate joint memorial was received by the governor on the 26th day of February, 1901, at 5 o'clock p. m., and approved on the 26th day of February, 1901.

FRANK W. HUNT, *Governor.*

I hereby certify that the within senate joint memorial No. 2, entitled "A memorial requesting Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States, which amendment shall provide for the election of President, Vice-President, and United States Senators by direct vote of the people," originated in the senate of Idaho during the sixth session.

WM. V. HELFRICH,
Secretary of the Senate.

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Idaho?

Mr. OWEN. I yield.

Mr. HEYBURN. I trust the Senator from Oklahoma will yield, merely that I may say that while that is certified by the Republican secretary of state, the certificate is of a resolution passed by a Democratic legislature. McKinley was the speaker of the house, but it was a Democratic legislature, and the resolution does not represent the Republican views of Idaho. That was a legislature——

Mr. OWEN. I am willing to let the Republican views of Idaho be represented by the Senator from Idaho.

Mr. HEYBURN. Yes; but I was not going to give the Republican views on this occasion. I stand ready to give them at any time; but I did not want the impression to go out that that was the action of a Republican legislature.

Mr. OWEN. The people of Idaho directly nominate United States Senators. (Idaho primary laws, 1903, p. 360. Mandatory; state wide; rudimentary.)

ILLINOIS.

To all to whom these presents shall come, greeting:

I, James A. Rose, secretary of state of the State of Illinois, do hereby certify that the following and hereto attached is a true copy of senate joint resolution No. 5 of the forty-third general assembly, adopted by the senate February 10, 1903, and concurred in by the house April 9, 1903, the original of which is now on file and a matter of record in this office.

In testimony whereof I hereto set my hand and cause to be affixed the great seal of State. Done at the city of Springfield this 10th day of March, A. D. 1908.

[SEAL.] JAMES A. ROSE,
Secretary of State.

—

Whereas by direct vote of the people of the State of Illinois at a general election held in said State on the 4th day of November, A. D. 1902, it was voted that this general assembly take the necessary steps under Article V of the Constitution of the United States to bring about the election of United States Senators by direct vote of the people; and

Whereas Article V of the Constitution of the United States provides that on the application of the legislatures of two-thirds of the several States the Congress of the United States shall call a convention for proposing amendments: Now, therefore, in obedience to the expressed will of the people as expressed at the said election, be it

Resolved by the senate (the house of representatives concurring herein), That application be, and is hereby, made to the Congress of the United States to call a convention for proposing amendments to the Constitution of the United States, as provided for in said Article V; and be it further

Resolved, That the secretary of state do furnish to the President of the Senate of the United States and to the Speaker of the House of Representatives of the United States, to each, one copy of this resolution, properly certified under the great seal of the State.

Adopted by the senate February 10, 1903.

J. H. PADDOCK,
Secretary of the Senate.
W. A. NORTHCOTT,
President of the Senate.

Concurred in by the house April 9, 1903.

JNO. A. REEVE,
Clerk of the House of Representatives.
JOHN H. MILLER,
Speaker of the House of Representatives.

The people of Illinois now directly nominate United States Senators under the protection of the law of 1908. (Illinois primary laws, 1908. Mandatory; state wide; direct.)

Indiana passed a similar resolution, only it relates to United States Senators alone.

INDIANA.

STATE OF INDIANA, *Office of Secretary of State:*

I, Fred A. Sims, secretary of state of the State of Indiana, and being the officer who under the constitution and laws thereof is the custodian of the enrolled acts of the general assembly, do hereby certify that the attached is a full, true, and complete copy of the house joint resolution No. 4, approved March 11, 1907, and filed in the office of the secretary of state, as the law provides.

In testimony whereof I have hereunto set my hand and affixed the seal of the State of Indiana, at Indianapolis, this 19th day of March, 1908.

[SEAL.] FRED A. SIMS,
Secretary of State.
FRANK I. GRUBBS,
Deputy.

—

Chapter 299.—Joint resolution of the sixty-fifth general assembly of the State of Indiana, making application to the Congress of the United States to call a convention for proposing amendments to the Constitution of the United States. (H. 4, joint resolution. Approved March 11, 1907.)

Whereas we believe that Senators of the United States should be elected directly by the voters; and

Whereas to authorize such direct election an amendment to the Constitution of the United States is necessary; and

Whereas the failure of Congress to submit such amendment to the States has made it clear that the only practicable method of securing a submission of such amendment to the States is through a constitutional convention, to be called by Congress upon the application of the legislatures of two-thirds of all the States: Therefore

SECTION 1. *Be it resolved by the general assembly of the State of Indiana*, That the legislature of the State of Indiana hereby makes application to the Congress of the United States, under Article V of the Constitution of the United States, to call a constitutional convention for proposing amendments to the Constitution of the United States.

SEC. 2. That this resolution, duly authenticated, shall be delivered forthwith to the President of the Senate and Speaker of the House of Representatives of the United States, with the request that the same shall be laid before the said Senate and House.

Indiana primary laws, 1907, chapter 282. Partly mandatory, partly optional; local; direct.

IOWA.

STATE OF IOWA, *Secretary of State:*

I, W. C. Hayward, secretary of state of the State of Iowa, do hereby certify that the attached instrument of writing is a true and correct copy of senate joint resolution No. 2, making application to the United States Congress to call convention for proposing amendments to the Constitution of the United States. Adopted by the thirty-second general assembly of the State of Iowa March 12, A. D. 1907, as the same appears of record in this office.

In testimony whereof I have hereunto set my hand and affixed the seal of the secretary of state of the State of Iowa.

Done at Des Moines, the capital of the State, April 20, 1908.

[SEAL.] W. C. HAYWARD,
Secretary of State.

—

Senate joint resolution 2.—Making application to United States Congress to call convention for proposing amendments to the Constitution of the United States.

Whereas we believe that Senators of the United States should be elected directly by the voters; and

Whereas to authorize such direct election an amendment to the Constitution of the United States is necessary; and

Whereas the failure of Congress to submit such amendment to the States has made it clear that the only practicable method of securing a submission of such amendment to the States is through a constitutional convention, to be called by Congress upon the application of the legislatures of two-thirds of all the States: Therefore

Be it resolved by the general assembly of the State of Iowa, That the legislature of the State of Iowa hereby makes application to the Congress of the United States, under Article V of the Constitution of the United States, to call a constitutional convention for proposing amendments to the Constitution of the United States.

SEC. 2. That this resolution, duly authenticated, shall be delivered forthwith to the President of the Senate and Speaker of the House of Representatives of the United States, with the request that the same shall be laid before the said Senate and House.

Approved March 12, A. D. 1907.

—

STATE OF IOWA, *Secretary of State:*

I, W. C. Hayward, secretary of state of the State of Iowa, do hereby certify that the attached instrument of writing is a true and correct copy of house joint resolution No. 9 as passed by the thirty-third gen-

eral assembly and approved by the governor April 12, A. D. 1909, as the same appears of record in this office.

In testimony whereof I have hereunto set my hand and affixed the seal of the secretary of state of the State of Iowa.

Done at Des Moines, the capital of the State, April 24, 1909.

[SEAL.] W. C. HAYWARD,
Secretary of State.
By ——— ———,
Deputy.

House joint resolution 9.

Joint resolution of the thirty-third general assembly of the State of Iowa, making application to the Congress of the United States to call a convention for proposing amendments to the Constitution of the United States.

Whereas we believe that Senators of the United States should be elected directly by the voters; and

Whereas to authorize such direct election, an amendment to the Constitution of the United States is necessary; and

Whereas the failure of Congress to submit such amendment to the States has made it clear that the only practicable method of securing submission of such amendment to the States is through a constitutional convention to be called by Congress upon the application of the legislatures of two-thirds of all the States: Therefore be it

Resolved, By the general assembly of the State of Iowa:

SECTION 1. That the legislature of the State of Iowa hereby makes application to the Congress of the United States, under Article V of the Constitution of the United States, to call a constitutional convenion for proposing amendments to the Constitution of the United States.

SEC. 2. That this resolution, duly authenticated, shall be delivered forthwith to the President of the Senate and Speaker of the House of Representatives of the United States, with the request that the same shall be laid before the said Senate and House.

Approved April 12, A. D. 1909.

To Committee on Privileges and Elections, April 30, 1909.

The people of Iowa directly nominate United States Senators under the protection of the law of 1907. (Iowa primary laws, 1907, chap. 51. Mandatory; state wide; direct.)

KANSAS.

Whereas there is a widespread and rapidly growing belief that the Constitution of the United States should be so amended as to provide for the election of the United States Senators by the direct vote of the people of the respective States; and

Whereas other amendments to the United States Constitution are by many intelligent persons considered desirable and necessary; and

Whereas the Senate of the United States has so far neglected to take any action whatever upon the matter of changing the manner of electing United States Senators, although favorable action upon such proposed change has several times been unanimously taken by the House of Representatives: Therefore be it

Resolved by the house of representatives of the State of Kansas (the Senate concurring therein), That the legislature of Kansas, in accordance with the provisions of Article V of the Constitution of the United States, hereby apply to and request the Congress of the United States to call a convention for the purpose of proposing amendments to the Constitution of the United States; and

Resolved, That we hereby request our Representatives in Congress and instruct our United States Senators to bring this matter to the attention of their respective bodies and to try and induce favorable action thereon; and

Resolved further, That the secretary of the State of Kansas is hereby directed to forthwith transmit a certified copy of these resolutions to the Vice-President of the United States, the Speaker of the House of Representatives in Congress, and to each of the Representatives and United States Senators in Congress from Kansas, and to the speaker of the house of representatives of each State in which the legislature is now or soon to be in session.

STATE OF KANSAS, *Office of the Secretary of State:*

I, C. E. Denton, secretary of state of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled resolution now on file in my office.

In testimony whereof I have hereunto subscribed my name and affixed my official seal this 18th day of January, 1908.

[SEAL.] C. E. DENTON,
Secretary of State.
By J. F. BOTKIN,
Assistant Secretary of State.

Senate joint resolution 4.

Be it resolved by the senate of the State of Kansas (the house of representatives concurring therein), That our Representatives in Congress be, and they are hereby, requested to vote and labor for the submission of an amendment to the Constitution of the United States providing for the election of United States Senators by a direct vote of the people.

I hereby certify that the above joint resolution originated in the senate and passed that body February 13, 1909.

W. J. FITZGERALD,
President of the Senate.
Z. E. WYANT,
Secretary of the Senate.

Passed the house March 1, 1909.

J. N. DOLLEY,
Speaker of the House.
W. T. BECK,
Chief Clerk of the House.

Approved March 5, 1909.

W. R. STUBBS, *Governor.*

STATE OF KANSAS, *Office of the Secretary of State:*

I, C. E. Denton, secretary of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

In testimony whereof I have hereunto subscribed my name and affixed my official seal this 6th day of March, 1909.

C. E. DENTON,
Secretary of State.
By J. F. BOTKIN,
Assistant Secretary of State.

The people of Kansas now directly nominate United States Senators under the protection of the law of 1908. (Kansas primary laws, 1908, chap. 54. Mandatory; state wide; direct.)

KENTUCKY.

Resolution favoring a change in the Constitution of the United States so as to provide for the election of Senators in the Congress of the United States by popular vote.

Whereas a large number of state legislatures have at various times adopted memorials and resolutions in favor of election of United States Senators by popular vote; and

Whereas the National House of Representatives has on four separate occasions within recent years adopted resolutions in favor of this proposed change in the method of electing United States Senators, which was not adopted by the Senate; and

Whereas by reason of alleged corruption and fraud and the corrupt use of money the election of United States Senators in several States have been prevented and by deadlocks several States have failed to elect Senators and in a number of instances the will of the people prevented; and

Whereas Article V of the Constitution of the United States provides that Congress, on the application of two-thirds of the several States, shall call a convention for proposing amendments, and believing there is a general desire upon the part of the people of Kentucky that United States Senators should be elected by the people,

Be it resolved by the general assembly of the Commonwealth of Kentucky, That the legislature of the State of Kentucky favors the adoption of an amendment to the Constitution which shall provide for the election of the United States Senators by popular vote, and joins with other States of the Union in respectfully requesting that a convention be called for the purpose of proposing an amendment to the Constitution of the United States, as provided for in Article V of the said Constitution, which amendment shall provide for a change in the present method of electing United States Senators, so that they can be chosen in each State by a direct vote of the people.

Resolved, That a copy of this concurrent resolution and application to Congress for the calling of a convention be sent to the President of the United States Senate and the Speaker of the House of Representatives.

Approved February 10, 1902.

Kentucky by voluntary party regulation nominated Senators in 1907. (Kentucky primary laws, 1892, chap. 65. Optional; state wide; direct.)

LOUISIANA.

Joint resolution making application to the Congress of the United States to call a convention for proposing amendments to the Constitution of the United States.

Whereas we believe that Senators of the United States should be elected directly by the voters; and

Whereas to authorize such direct election an amendment to the Constitution of the United States is necessary; and

Whereas the failure of Congress to submit such amendment to the States has made it clear that the only practicable method of securing a submission of such amendment to the State is through a constitutional convention, to be called by Congress upon the application of the legislatures of two-thirds of all the States: Therefore be it

Resolved by the general assembly of the State of Louisiana, That the legislature of the State of Louisiana hereby makes application to the Congress of the United States, under Article V of the Constitution of the United States, to call a constitutional convention for proposing amendments to the Constitution of the United States.

SEC. 2. That this resolution, duly authenticated, shall be delivered forthwith to the President of the Senate and Speaker of the House of Representatives of the United States, with the request that the same shall be laid before the said Senate and House.

J. W. HYAMS,
Speaker of the House of Representatives.
J. Y. SANDERS,
Lieutenant-Governor and President of the Senate.

Approved November 25, 1907.

NEWTON C. BLANCHARD,
Governor of the State of Louisiana.

A true copy.

JOHN T. MICHEL,
Secretary of State.

STATE OF LOUISIANA, *Parish of East Baton Rouge, ss:*

Before me, W. M. Barrow, a notary public in and for the State and parish aforesaid, duly commissioned and qualified, personally appeared H. H. Johnson, a resident of the city of Baton Rouge, State of Louisiana, to me well and personally known, who upon oath stated that he made the above and foregoing copy of act No. 4 of the extra session of the general assembly of the State of Louisiana of 1907, and that the same is a true and correct copy of the original.

H. H. JOHNSON.

Subscribed and sworn to before me this 10th day of March, A. D. 1908.

[SEAL.] W. M. BARROW, *Notary Public.*

In Louisiana United States Senators are directly nominated under protection of law of 1906. (Louisiana primary laws, 1906, chap. 49. Mandatory; state wide; direct.)

MARYLAND.

Maryland directly nominates Senators by voluntary party regulations. (Maryland, 1906, chap. 407. Mandatory; state wide; optional delegate or direct.)

Maine primary law, 1903, chapter 214; 1905, chapter 149. Rudimentary; local law has established the initiative and referendum.

Massachusetts primary law, code 1907, chapter 560; 1908, chapter 345. Partly mandatory; partly optional; partly state wide; partly local; partly delegate; partly direct.

The lower branch of the legislature of Massachusetts has just passed (May 11, 1910) a resolution favoring election of United States Senators by direct vote of the people.

MICHIGAN.

STATE OF MICHIGAN, *Department of State:*

I, Clarence J. Mears, deputy secretary of state of the State of Michigan and custodian of the great seal of the State, hereby certify that the annexed sheet of paper contains a correct and compared transcript of joint resolution No. 7, passed at the session of the legislature of 1901, the original of which is on file in this office.

In witness whereof I have hereto affixed my signature and the great seal of the State, at Lansing, this 11th day of March, in the year of our Lord 1908.

[SEAL.]

CLARENCE J. MEARS,
Deputy Secretary of State.

—

No. 7.—A joint resolution of the senate and house of representatives of the State of Michigan, making application to the Congress of the United States, under Article V of the Constitution, for the submission of an amendment to said Constitution, making United States Senators elective in the several States by popular vote.

Resolved by the senate and house of representatives of the State of Michigan, That application is hereby made to the Congress under the provision of Article V of the Constitution of the United States for the calling of a convention to propose an amendment to the Constitution of the United States, making United States Senators elective in the several States by direct vote of the people; and

Resolved further, That the secretary of state is hereby directed to transmit copies of this application to the Senate, House of Representatives of the Congress, and copies to the Members of the said Senate and House of Representatives from this State; also to transmit copies hereof to the presiding officers of each of the legislatures now in session in the several States, requesting their cooperation.

In Michigan United States Senators are directly nominated. (Michigan primary laws, 1907, extra session, chap. 4. Mandatory; state wide; partly direct, partly delegate.)

MINNESOTA.

STATE OF MINNESOTA, *Department of State:*

I, Julius A. Schmahl, secretary of state of the State of Minnesota, do hereby certify that I have compared the annexed copy with the original instrument in my office of chapter 406, Laws of Minnesota of 1901, approved February 9, 1901, and that said copy is a true and correct transcript of said original instrument and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State, at the capitol, in St. Paul, this 20th day of April, A. D. 1908.

[SEAL.]

JULIUS A. SCHMAHL,
Secretary of State.

—

Chapter 406.—A joint resolution of the senate and house of representatives of the State of Minnesota making application to the Congress of the United States under Article V of the Constitution for the submission of an amendment to said Constitution making United States Senators elective in the several States by popular vote.

Be it enacted by the legislature of the State of Minnesota, That the legislature of the State of Minnesota hereby makes application to the Congress under the provisions of Article V of the Constitution of the United States for the calling of a convention to propose an amendment to the Constitution of the United States making United States Senators elective in the several States by direct vote of the people.

SEC. 2. The secretary of state is hereby directed to transmit copies of this application to the Senate, House of Representatives of the Congress, and copies to the members of the said Senate and House of Representatives from this State; also, to transmit copies hereof to the presiding officers of each of the legislatures now in session in the several States, requesting their cooperation.

Approved, February 9, 1901.

Minnesota primary laws, 1901, chapter 216; 1902, chapters 6, 7; 1903, chapter 90; 1905, chapter 92. Mandatory; state wide; for local offices, direct.

MISSISSIPPI.

The people of Mississippi directly nominate United States Senators under protection of law of 1902. (Mississippi primary laws, 1902, chap. 66. Minor amendments; mandatory; state wide; direct.)

MISSOURI.

Joint and concurrent resolution.—Application of the legislature of the State of Missouri for a convention for proposing amendments to the Constitution of the United States, as provided in Article V thereof.

Resolved by the general assembly of the State of Missouri, That the legislature of Missouri shall, and hereby does, make application to the Congress of the United States of America to call a convention for proposing amendments to the Constitution of the United States, as provided in Article V thereof; and

Resolved, further, That the Congress be requested to provide for the holding of state conventions to pass upon amendments submitted, as also provided in said Article V.

Approved March 6, 1907.

—

STATE OF MISSOURI, *Department of State:*

I, John E. Swanger, secretary of state of the State of Missouri, do hereby certify that the annexed and foregoing is a true and complete copy of a joint and concurrent resolution passed by the forty-fourth general assembly of the State of Missouri, approved March 6, 1907.

In testimony whereof I hereunto set my hand and affix the great seal of the State of Missouri.

Done at the city of Jefferson this 9th day of March, A. D. 1908.

[SEAL.]

JNO. E. SWANGER,
Secretary of State.

The people of Missouri directly nominate United States Senators under the protection of the law of 1907. (Missouri primary laws, 1907, p. 263. Mandatory; state wide; direct.)

MONTANA.

Senate joint resolution No. 1.—Requesting Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States, which amendment shall provide for the election of United States Senators by direct vote of the people.

Whereas a large number of the state legislatures have, at various times, adopted memorials and resolutions in favor of the election of United States Senators by popular vote; and

Whereas the National House of Representatives has, on several occasions within recent years, adopted resolutions in favor of this proposed change in the method of electing United States Senators, which were not adopted by the Senate; and

Whereas Article V of the Constitution of the United States provides that Congress, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposed amendments; and

Believing there is a general desire upon the part of the citizens of the State of Montana that the United States Senators should be elected by a direct vote of the people: Therefore, be it

Resolved (if the house concur), That the legislature of the State of Montana favors the adoption of an amendment to the Constitution which shall provide for the election of United States Senators by popular vote, and joins with other States of the Union in respectfully requesting that a convention be called for the purpose of proposing an amendment to the Constitution of the United States, as provided for in Article V of the said Constitution, which amendment shall provide for a change in the present method of electing United States Senators, so that they can be chosen in each State by direct vote of the people.

Resolved, That a copy of this joint resolution and application to Congress for the calling of the convention be sent to the secretary of state of each of the United States, and that a similar copy be sent to the President of the United States, the Speaker of the House of Representatives, and also to each of the United States Senators from Montana and our Representative in Congress.

EDWIN L. NORRIS,
President of the Senate.

E. W. RING,
Speaker of the House.

Approved February 21, 1907.

J. K. TOOLE, *Governor.*

Filed February 21, 1907, at 4.05 p. m.

A. N. YODER,
Secretary of State.

—

UNITED STATES OF AMERICA, *State of Montana, ss:*

I, A. N. Yoder, secretary of state of the State of Montana, do hereby certify that the above is, with the exception of corrections in orthography and punctuation, and insertion of omissions or substitute words in brackets, a true and correct copy of senate joint resolution No. 1, resolution requesting Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States, which amendment shall provide for the election of United States Senators by direct vote of the people, enacted by the tenth session of the legislative assembly of the State of Montana, and approved by J. K. Toole, governor of said State, on the 21st day of February, A. D. 1907.

In testimony whereof I have hereunto set my hand and affixed the great seal of said State. Done at the city of Helena, the capital of said State, this 28th day of January, A. D. 1908.

[SEAL.]

A. N. YODER, *Secretary of State.*
By DAVE PIZER, *Deputy.*

The people of Montana directly nominate United States Senators under the protection of the law of 1905. (Montana primary laws, 1895, P. C., 1330. Mandatory; rudimentary.)

NEBRASKA.

A bill for a concurrent resolution relating to the election of United States Senators.

SECTION 1. That it is deemed necessary to amend the Constitution of the United States so as to make provisions therein for the election of United States Senators by direct vote of the people.

SEC. 2. That pursuant to the provisions of Article V of the Constitution of the United States application is hereby made to the Congress of the United States to call a convention to propose an amendment to the Constitution of the United States providing for the election of United States Senators by direct vote of the people.

SEC. 3. That a copy of this joint resolution be sent to each Senator and Representative from the State of Nebraska in the Congress of the United States, and to each presiding officer of the Senate and House composing the Congress.

Approved March 25, 1903, by John H. Mickey.

—

EXECUTIVE OFFICE, *Lincoln, Nebr.:*

I, George Lawson Sheldon, governor of the State of Nebraska, do hereby certify that the above is a true and correct copy of house roll No. 187, passed by the legislature of the State of Nebraska in the year 1903 and approved by the Hon. John H. Mickey March 25, 1903.

In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Nebraska, this 9th day of March, 1908.

GEORGE LAWSON SHELDON,
Governor.

[SEAL.]

GEO. C. JUNKIN,
Secretary of State.

The people of Nebraska directly nominate United States Senators under the law of 1907. (Nebraska primary law, 1907, chap. 52. Mandatory; state wide; direct.)

Montana, I believe, is a Republican State. Nebraska, I believe, is a Republican State. In fact, every State west of the Hudson River except the two that I mentioned stand for this principle. I believe a majority of them are Republican States.

Mr. BORAH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Idaho?

Mr. OWEN. Certainly.

Mr. BORAH. I was absent from the Chamber when Idaho was supposed to have been enlisted in this matter, and I desire to say that there is no doubt in my mind that Idaho is in favor of the principle of electing Senators by popular vote, and that our legislature was not insane when it so declared.

Mr. OWEN. I have not the slightest doubt of the correctness of the view of the junior Senator from Idaho, and am glad to have the junior Senator from Idaho answer the senior Senator from Idaho as to the views of the people of Idaho, and as to the sanity of the legislature of that State.

NEVADA.

Senate concurrent resolution relating to the election of United States Senators by direct popular vote.

Whereas the people of this State, as shown by a vote taken thereon, favor an amendment to the Constitution of the United States providing for the election of United States Senators by a direct popular vote; and

Whereas it is evident that a large majority of the American people favor such an amendment, as shown by the tone of the public press and by the resolutions of the state legislatures of the various States and the resolution passed by the National House of Representatives; and

Whereas Article V of the Constitution of the United States provides that Congress, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments thereto:

Resolved, therefore (if the assembly concur), That the legislature of the State of Nevada favors the adoption of an amendment to the Constitution which shall provide for the election of United States Senators by popular vote, and respectfully requests that a convention be called for the purpose of proposing an amendment to the Constitution of the United States, as provided for in Article V of said Constitution, which amendment shall provide for a change in the present method of electing United States Senators, so that they can be chosen in each State by a direct vote of the people.

Resolved, That a copy of this resolution and application to Congress for the calling of a convention be sent to the President of the United States, the Speaker of the House of Representatives, and to each of the Representatives of the State of Nevada in the Congress of the United States.

Resolved, That our Representative in Congress be directed to urge upon Congress the calling of a convention provided for by these resolutions.

The people of Nevada directly nominate United States Senators. (Nevada primary laws, 1883, chap. 18. Mandatory; rudimentary.)

New Hampshire primary laws, 1905, chapter 95; 1907, chapter 105. Partly mandatory; partly optional; rudimentary.

NEW JERSEY.

Joint resolution 5.

Whereas Article V of the Constitution of the United States provides that "the Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or on the application of the legislatures of two-thirds of the several States shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by convention in three-fourths thereof," etc.; and

Whereas the House of Representatives of the Congress of the United States has on four separate occasions passed by a two-thirds vote a resolution proposing an amendment to the Constitution providing for the election of United States Senators by direct vote of the people; and

Whereas the United States Senate has each time refused to consider or vote upon said resolution, thereby denying to the people of the several States a chance to secure this much desired change in the method of electing Senators: Therefore be it

Resolved by the senate and general assembly of the State of New Jersey, Under the authority of Article V of the Constitution of the United States application is hereby made to Congress to forthwith call a constitutional convention for the purpose of submitting to the States for ratification an amendment to the Federal Constitution providing for the election of United States Senators by direct vote of the people; and

Resolved, That the secretary of state be, and is hereby, directed to forward a properly authenticated copy of these resolutions to the President of the United States, to the President of the Senate of the United States, and to the Speaker of the House of Representatives of the United States.

Approved May 28, 1907.

—

STATE OF NEW JERSEY, *Department of State:*

I, S. D. Dickinson, secretary of state of the State of New Jersey, do hereby certify that the foregoing is a true copy of joint resolution No. 5 of the legislature of the State of New Jersey, approved by the governor May 28, 1907, as the same is taken from and compared with the original now remaining on file in my office.

In testimony whereof, I have hereunto set my hand and affixed my official seal, at Trenton, this 25th day of November, A. D., 1907.

S. D. DICKINSON,
Secretary of State.

The people of New Jersey directly nominate United States Senators under the protection of the law of 1908. (New Jersey primary laws, 1898, chap. 139, and subsequent amendments. Mandatory; state wide; partly direct and partly indirect.)

New York primary laws, act of 1898, chapter 179, as amended each succeeding year. Mandatory; partly state wide; partly local; direct features optional.

NORTH CAROLINA.

A joint resolution relative to amending the Constitution of the United States to provide for the election of United States Senators by a direct vote of the people of the respective States.

Whereas there is a widespread and rapidly growing belief that the Constitution of the United States should be so amended as to provide for the election of the United States Senators by the direct vote of the people of the respective States; and

Whereas other amendments to the United States Constitution are by many intelligent persons considered desirable and necessary; and

Whereas the Senate of the United States has so far neglected to take any action whatever upon the matter of changing the manner of electing United States Senators, although favorable action upon such proposed change has several times been unanimously taken by the House of Representatives: Therefore

Be it resolved by the house of representatives of the State of North Carolina (the senate concurring therein), That the legislature of North Carolina, in accordance with the provisions of Article V of the Constitution of the United States, hereby apply to and request the Congress of the United States to call a convention for the purpose of proposing amendments to the Constitution of the United States; and

Resolved, That we hereby request our Representatives in Congress and instruct our United States Senators to bring this matter to the attention of the respective bodies and to try and induce favorable action thereon; and

Resolved further, That the secretary of the State of North Carolina is hereby directed to forthwith transmit a certified copy of these resolutions to the Vice-President of the United States, the Speaker of the House of Representatives in Congress, and to each of the Representatives and United States Senators in Congress from North Carolina, and to the speaker of the house of representatives of each State in which the legislature is now or soon to be is session.

In the general assembly; read three times, and ratified this the 11th day of March, A. D. 1907.

—

STATE OF NORTH COROLINA, *Office of Secretary of State:*

I, J. Bryan Grimes, secretary of state of the State of North Carolina, do hereby certify the foregoing and attached (two sheets) to be a true copy from the records of this office.

In witness whereof I have hereunto set my hand and affixed my official seal.

Done in office at Raleigh this 4th day of April, in the year of our Lord 1908.

J. BRYAN GRIMES,
Secretary of State.

North Carolina primary laws, 1907 (numerous special acts). Mandatory and optional; local; rudimentary.

NORTH DAKOTA.

The people of North Dakota directly nominate United States Senators under the protection of the law of 1907. (North Dakota primary laws, 1907, chap. 109. Mandatory; state wide; direct.)

OHIO.

The people of Ohio directly advise as to United States Senators. Ohio permits under law of 1908 the direct nomination of Senators by primary. (Ohio primary laws, 1908. Mandatory; state wide; delegate and direct; direct in cities and counties; advisory vote on United States Senator.)

OKLAHOMA.

Senate joint resolution 9.—Relating to the calling of a convention of the States to propose amendments to the Constitution of the United States providing for the election of United States Senators by direct vote of the people, and for other purposes, and providing for the appointment of a senatorial election commission of the State of Oklahoma.

Whereas a large number of the state legislatures have at various times adopted memorials and resolutions in favor of the election of United States Senators by direct vote of the people of the respective States; and

Whereas the National House of Representatives has on several different occasions in recent years adopted resolutions in favor of the proposed change in the method of electing United States Senators, which were not adopted by the Senate: Therefore be it

Resolved by the senate and the house of representatives of the State of Oklahoma, That the legislature of the State of Oklahoma, in accordance with the provisions of Article V of the Constitution of the United States, desires to join with the other States of the Union to respectfully request that a convention of the several States be called for the purpose of proposing amendments to the Constitution of the United States, and hereby apply to and request the Congress of the United States to call such convention and to provide for submitting to the several States the amendments so proposed for ratification by the legislatures thereof, or by conventions therein, as one or the other mode of ratification may be proposed by Congress.

SEC. 2. That at said convention the State of Oklahoma will propose, among other amendments, that section 3 of Article I of the Constitution of the United States should be amended to read as follows:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the electors thereof, as the governor is chosen, for six years; and each Senator shall have one vote. They shall be divided as equally as may be into three classes, so that one-third may be chosen every year; and if vacancies happen by resignation or otherwise the governor may make temporary appointments until the next regular election in such State. No person shall be a Senator who shall not have attained the age of 30 years, and been nine years a citizen of the United States, and who shall not when elected be an elector of the State for which he shall be chosen. The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided. The Senate shall choose their own officers and also a President pro tempore in the absence of the Vice-President or when he shall exercise the office of the President of the United States."

SEC. 3. A legislative commission is hereby created, to be composed of the governor and eight members, to be appointed by him, not more than four of whom shall belong to the same political party, to be known as

the senatorial direct-election commission of the State of Oklahoma. It shall be the duty of said legislative commission to urge action by the legislatures of the several States and by the Congress of the United States to the end that a convention may be called as provided in section 1 hereof. The members of said commission shall receive no compensation.

SEC. 4. That the governor of the State of Oklahoma is hereby directed forthwith to transmit certified copies of this joint resolution and application to both Houses of the United States Congress, to the governor of each State in the Union, and to each of our Representatives and Senators in Congress.

GEORGE W. BELLAMY,
President of the Senate.
WM. H. MURRAY,
Speaker of the House of Representatives.

Approved January 9, 1908.

C. N. HASKELL,
Governor of the State of Oklahoma.

—

STATE OF OKLAHOMA, *Department of State:*

I, Bill Cross, secretary of state of the State of Oklahoma, do hereby certify that the annexed and foregoing is a true copy of senate joint resolution No. 9, relating to the calling of a convention of the States to propose amendments to the Constitution of the United States providing for the election of United States Senators by direct vote of the people, and providing for the appointment of a senatorial election commission of the State of Oklahoma.

Approved, January 9, 1908.

The original of which is now on file and a matter of record in this office.

In testimony whereof I have hereunto set my hand and caused to be affixed my official seal.

Done at the city of Guthrie this 29th day of January, A. D. 1908.

[SEAL.] BILL CROSS, *Secretary of State.*
By LEO MEYER, *Deputy.*

The people of Oklahoma directly nominate United States Senators under the protection of the law of 1908. (Oklahoma primary law, 1908. Mandatory; state wide; direct.)

OREGON.

STATE OF OREGON,
Office of the Secretary of State:

I, F. W. Benson, secretary of state of the State of Oregon and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of senate joint resolution No. 7 with the original of said joint resolution No. 7, with the indorsements thereon, filed in the office of the secretary of state of the State of Oregon on the 10th day of March, 1903, and that the same is a full, true, and correct transcript therefrom and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the State of Oregon. Done at the capitol at Salem, Oreg., this 12th day of March, A. D. 1908.

[SEAL.] F. W. BENSON, *Secretary of State.*

—

Senate joint resolution 7.

Whereas Article V of the Constitution of the United States provides that "the Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or on the application of the legislatures of two-thirds of the several States shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by convention in three-fourths thereof," etc.; and

Whereas the House of Representatives of the Congress of the United States has on four separate occasions passed by a two-thirds vote a resolution proposing an amendment to the Constitution providing for the election of United States Senators by direct vote of the people; and

Whereas the United States Senate has each time refused to consider or vote upon said resolution, thereby denying to the people of the several States a chance to secure this much-desired change in the method of electing Senators: Therefore, be it

Resolved by the senate and house of representatives of the State of Oregon, That, under the authority of Article V of the Constitution of the United States, application is hereby made to Congress to forthwith call a constitutional convention for the purpose of submitting to the States for ratification an amendment to the Federal Constitution providing for the election of United States Senators by direct vote of the people; and

Resolved, That the secretary of state be, and is hereby, directed to forward a properly authenticated copy of these resolutions to the President of the United States and to the President of the Senate of the United States and to the Speaker of the House of Representatives of the United States.

The people of Oregon directly nominate United States Senators under protection of the law of 1904. (Oregon primary law, 1904. Mandatory; state wide; direct.)

PENNSYLVANIA.

No. 10.] IN THE SENATE, *February 6, 1901.*

Whereas a large number of state legislatures have at various times adopted memorials and resolutions in favor of election of United States Senators by popular vote; and

Whereas the National House of Representatives has on four separate occasions, within recent years, adopted resolutions in favor of this proposed change in the method of electing United States Senators, which were not adopted by the Senate; and

Whereas Article V of the Constitution of the United States provides that Congress, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, and believing there is a general desire upon the part of the citizens of the State of Pennsylvania that the United States Senators should be elected by a direct vote of the people: Therefore be it

Resolved (if the house of representatives concur), That the legislature of the State of Pennsylvania favors the adoption of an amendment to the Constitution which shall provide for the election of United States Senators by popular vote, and joins with other States of the Union in respectfully requesting that a convention be called for the purpose of proposing an amendment to the Constitution of the United States as provided for in Article V of the said Constitution, which amendment shall provide for a change in the present method of electing United States Senators, so that they can be chosen in each State by a direct vote of the people.

Resolved, That a copy of this concurred resolution and application to Congress for the calling of a convention be sent to the secretary of state of each of the United States, and that a similar copy be sent to the President of the United States Senate and the Speaker of the House of Representatives.

E. W. SMILEY,
Chief Clerk of the Senate.

The foregoing resolution concurred in February 6, A. D. 1901.

CHARLES JOHNSON,
Acting Chief Clerk of the House of Representatives.

Approved the 13th day of February, A. D. 1901.

WILLIAM A. STONE.

The foregoing is a true and correct copy of concurrent resolution of the general assembly No. 10.

[SEAL.] W. W. GRIEST,
Secretary of the Commonwealth.

Pennsylvania primary laws, 1906, chapter 10; 1907, chapter 160. Mandatory; state wide; direct, except for state offices.

Rhode Island primary laws, 1902, chapter 1078. Mandatory; local; direct or indirect.

SOUTH CAROLINA.

The people of South Carolina nominate United States Senators by voluntary party regulations. (South Carolina primary laws, 1888, chap. 9; 1896, chap. 25; 1900, chap. 211; 1903, chap. 73; 1905, chap. 409. Mandatory; state wide; rudimentary.)

SOUTH DAKOTA.

UNITED STATES OF AMERICA,
State of South Dakota, Secretary's Office:

I, D. D. Wipf, secretary of state of South Dakota and keeper of the great seal thereof, do hereby certify that the attached instrument of writing is a true and correct copy of house joint resolution No. 2, as passed by the legislature of 1907, and of the whole thereof, and has been compared with the original now on file in this office.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of South Dakota. Done at the city of Pierre this 18th day of March, 1908.

[SEAL.] D. D. WIPF, *Secretary of State,*
By J. L., *Assistant Secretary of State.*

—

House joint resolution 2.—A joint resolution memorializing Congress to submit to the several States an amendment to the Constitution of the United States, providing for the election of the United States Senators by direct vote of the electors.

Be it resolved by the house of representatives (the senate concurring therein):

Whereas the election of United States Senators by the legislatures of the several States frequently interferes with important legislative duties, and has in many States resulted in charges of bribery and corruption; and

Whereas the sentiment of the majority of the people of this State is in favor of electing United States Senators by a direct vote of the electors of the State, that under authority of Article V of the Constitution of the United States application is hereby made to Congress to forthwith call a constitutional convention for the purpose of submitting to the States for ratification an amendment to the Federal Constitution providing for the election of United States Senators by direct vote of the electors of the several States.

Be it further resolved, That the secretary of state be, and he is hereby, authorized and directed to send a properly authenticated copy of this resolution to the President of the United States, to the President of the United States Senate, the Speaker of the House of Representatives of the United States, and to each of the Senators and Representatives in Congress of the State of South Dakota.

M. J. CHANEY,
Speaker of the House.

Attest:

JAMES W. CONE,
Chief Clerk.
HOWARD C. SHOBER,
President of the Senate.

Attest:

L. H. SIMONS,
Secretary of the Senate.

I hereby certify that the within joint resolution originated in the house of representatives and was known in the house files as house joint resolution No. 2.

JAMES W. CONE, *Chief Clerk.*

STATE OF SOUTH DAKOTA, *Office Secretary of State, ss:*

Filed February 2, 1907, at 5 o'clock p. m.

D. D. WIPF, *Secretary of State.*

The people of South Dakota directly nominate United States Senators under the protection of the law of 1907. (South Dakota primary laws, 1907, chap. 139. Mandatory; state wide; direct; includes United States Senators.)

TENNESSEE.

Joint resolution No. 15.—Requesting Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States, which amendment shall provide for the election of United States Senators by direct vote of the people.

Whereas a large number of the state legislatures have at various times adopted memorials and resolutions in favor of the election of United States Senators by popular vote; and

Whereas the National House of Representatives has on several occasions recently adopted resolutions in favor of this proposed change in the method of electing United States Senators, which were not adopted by the Senate; and

Whereas Article V of the Constitution of the United States provided that Congress, on the application of the legislatures of two-thirds of the

several States, shall call a convention for the proposed amendments; and

Whereas, believing there is a general desire upon the part of the citizens of the State of Tennessee that the United States Senators should be elected by a direct vote of the people: Therefore

Be it resolved (if the house concur), That the legislature of the State of Tennessee favors the adoption of an amendment to the Constitution which shall provide for the election of United States Senators by popular vote, and joins with other States of the Union in respectfully requesting that a constitutional convention be called for the purpose of proposing an amendment to the Constitution of the United States, as provided for in Article V of said Constitution, which amendment shall provide for a change in the present method of electing United States Senators, so that they can be chosen in each State by direct vote of the people.

Be it further enacted, That a copy of this joint resolution and application to Congress for calling of the convention be sent to the secretary of state of each of the United States, and that a similar copy be sent to the President of the United States, to the Speaker of the House of Representatives, to each of the United States Senators from Tennessee, and our Representatives in Congress.

Adopted March 14, 1905.

J. I. COX,
Speaker of the Senate.

W. K. ABERNATHY,
Speaker of the House of Representatives.

Approved March 22, 1905.

JAMES B. FRAZIER, *Governor.*

—

STATE OF TENNESSEE, *Office of Secretary of State:*

I, John W. Morton, secretary of the State of Tennessee, do certify that the annexed is a true copy of senate joint resolution No. 15, passed by the general assembly of the State of Tennessee, 1905, the original of which is now of record in my office.

This the 12th day of March, 1907.

JNO. W. MORTON, *Secretary of State.*

The people of Tennessee favor direct nomination of United States Senators. Tennessee passed an act in 1908 for the direct nomination of Senators, although the act was later declared invalid by the supreme court of Tennessee. (Tennessee primary laws, 1901, chap. 39; 1903, chap. 241; 1905, chap. 353. Optional; state wide; direct.)

TEXAS.

House concurrent resolution 22.

Whereas under the present method of the election of United States Senators by the legislatures of the several States protracted contests frequently result in no election at all, and in all cases interfering with needed state legislation; and

Whereas Oregon, in common with many of the other States, has asked Congress to adopt an amendment to the Constitution of the United States providing for the election of United States Senators by a direct vote of the people, and said amendment has passed the House of Representatives on several occasions, but the Senate of the United States has continually refused to adopt said amendments: Therefore, be it

Resolved by the house of representatives of the State of Texas (the senate concurring), That the Congress of the United States is hereby asked and urgently requested to call a constitutional convention for proposing amendments to the Constitution of the United States as provided in Article V of the said Constitution of the United States.

Resolved, That we hereby ask and urgently request that the legislative assembly of each of the other States in the Union unite with us in asking and urgently requesting the Congress of the United States to call a constitutional convention for the purpose of proposing amendments to the Constitution of the United States.

Resolved, That the secretary of state be, and is hereby, authorized and directed to send a certified copy of this concurrent resolution to the President of the United States Senate, the Speaker of the House of Representatives of the United States, and to the legislative assembly of each and every of the other States of the Union.

(NOTE.—The enrolled bill shows that the foregoing resolution passed the house of representatives, no vote given; and passed the senate, no vote given.)

Approved April 17, 1901.

—

THE STATE OF TEXAS, *Department of State:*

I, W. R. Davie, secretary of state of the State of Texas, do hereby certify that the attached and foregoing is a true and correct copy of house concurrent resolution No. 22, passed by the twenty-seventh legislature of the State of Texas, and approved April 17, 1901, as the same appears of record in the printed statute book of the State of Texas, deposited in the office of the secretary of state of the State of Texas, on pages 327 and 328 of General Laws of the State of Texas passed at the regular session of the twenty-seventh legislature, convened at the city of Austin, January 8, 1901, and adjourned April 9, 1901; and I further certify that I am the keeper and custodian of the said printed statute book above mentioned.

In testimony whereof I have hereunto signed my name officially and caused to be impressed hereon the seal of my office, same being the great seal of the State of Texas, at my office in Austin, Tex., on this the 3d day of April, A. D. 1908.

[SEAL.]

W. R. DAVIE,
Secretary of State.

The people of Texas directly nominate United States Senators under protection of the law of 1907. (Texas primary laws, 1907, chap. 177. Mandatory; state wide; direct.)

UTAH.

House joint resolution.

Whereas Article V of the Constitution of the United States provides that "the Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or on the application of the legislatures of two-thirds of the several States shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of this Constitution when ratified by the legislatures of three-fourths of the several States or by convention in three-fourths thereof," etc.; and

Whereas the House of Representatives of the Congress of the United States has on four separate occasions passed by a two-thirds vote a resolution proposing an amendment to the Constitution providing for the election of United States Senators by direct vote of the people; and

Whereas the United States Senate has each time refused to consider or vote upon said resolution, thereby denying to the people of the several States a chance to secure this much-desired change in the method of electing Senators: Therefore be it

Resolved by the senate and house of representatives of the State of Utah, That under the authority of Article V of the Constitution of the United States, application is hereby made to Congress to forthwith call a constitutional convention for the purpose of submitting to the States for ratification an amendment to the Federal Constitution providing for the election of United States Senators by direct vote of the people; and

Resolved, That the secretary of state be, and is hereby, directed to forward a properly authenticated copy of these resolutions to the President of the United States and to the Speaker of the House of Representatives of the United States.

Approved this 12th day of March, 1903.

—

STATE OF UTAH, *County of Salt Lake, ss:*

I, Willard Done, a notary public in and for the county of Salt Lake, State of Utah, do hereby certify that the within is a full, true, and correct copy of a house joint resolution passed by the legislature of the State of Utah and approved by Governor Heber M. Wells on the 12th day of March, 1903.

In testimony whereof I have hereunto set my hand and seal this 11th day of March, A. D. 1908.

WILLARD DONE, *Notary Public.*

Utah primary laws, 1901, chapter 72. Mandatory; rudimentary.

VIRGINIA.

The people of Virginia nominate United States Senators directly under voluntary party regulations. (Virginia primary law, code of 1904, sec. 1220. Optional; rudimentary.)

WASHINGTON.

Chapter 61.—An act making application to the Congress of the United States of America to call a convention for proposing amendments to the Constitution of the United States of America as authorized by Article V of the Constitution of the United States of America. (H. B. No. 207.)

Whereas the present method of electing a United States Senator is expensive and conducive of unnecessary delay in the passage of useful legislation; and

Whereas the will of the people can best be ascertained by direct vote of the people: Therefore,

Be it enacted by the legislature of the State of Washington, That application be, and the same is hereby, made to the Congress of the United States of America to call a convention for proposing amendments to the Constitution of the United States of America as authorized by Article V of the Constitution of the United States of America.

SEC. 2. That a duly certified copy of this act be immediately transmitted to the presiding officer of each legislative body of each of the several States of the United States of America, through the governor of each of the several States, with a request that each of such legislatures pass an act of like import as this act.

Passed the house February 19, 1903.

Passed the senate March 7, 1903.

Approved by the governor March 12, 1903.

—

STATE OF WASHINGTON,
Department of State, ss:

I, Sam H. Nichols, secretary of state of the State of Washington, do hereby certify that the above is a full, true, and correct copy of the original enrolled law now on file in this office.

In testimony whereof I have hereunto set my hand and affixed the seal of State this 13th day of March, A. D. 1908.

[SEAL.]

SAM H. NICHOLS,
Secretary of State.

The people of Washington directly nominate United States Senators under the protection of the law of 1907. (Washington primary laws, 1907, chap. 209. Mandatory; state wide; direct; includes United States Senator.)

West Virginia primary laws, 1891, chapter 67. Optional; rudimentary.

WISCONSIN.

To all to whom these presents shall come:

I, J. A. Frear, secretary of state of the State of Wisconsin and keeper of the great seal thereof, do hereby certify that the annexed copy of joint resolution No. 10 has been compared by me with the original enrolled resolution on file in this department and that the same is a true copy thereof, and of the whole of such original enrolled resolution.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State at the capitol, in the city of Madison, this 11th day of March, A. D. 1908.

[SEAL.]

J. A. FREAR, *Secretary of State.*

—

Joint resolution 10.

Whereas Article V of the Constitution of the United States provides that "the Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or on the application of the legislatures of two-thirds of the several States shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by convention in three-fourths thereof," etc.; and

Whereas the House of Representatives of the Congress of the United States has on four separate occasions passed by a two-thirds vote a

resolution proposing an amendment to the Constitution providing for the election of United States Senators by direct vote of the people; and

Whereas the United States Senate has each time refused to consider or vote upon said resolution, thereby denying to the people of the several States a chance to secure this much-desired change in the method of electing Senators: Therefore be it

Resolved by the senate and assembly of the State of Wisconsin, That, under the authority of Article V of the Constitution of the United States, application is hereby made to Congress to forthwith call a constitutional convention for the purpose of submitting to the States for ratification an amendment to the Federal Constitution providing for the election of United States Senators by direct vote of the people; and

Resolved, That the secretary of state be, and is hereby, directed to forward a proper authenticated copy of these resolutions to the President of the United States, to the President of the Senate of the United States, and to the Speaker of the House of Representatives of the United States.

J. O. DAVIDSON,
President of the Senate.
I. L. LENROOT,
Speaker of the Assembly.
THEO. W. GOLDIN,
Chief Clerk of the Senate.
C. O. MARSH,
Chief Clerk of the Assembly.

The people of Wisconsin directly nominate Senators under the protection of the law of 1903. (Wisconsin primary laws, 1903, chap. 451; 1907, pp. 2. Mandatory; state wide; direct; includes United States Senator.)

WYOMING.

Enrolled memorial 2, house of representatives.

Be it resolved by the third legislature of the State of Wyoming, That the Senate and House of Representatives of the United States of America be memorialized as follows: The third legislature of the State of Wyoming respectfully represents to the honorable the Senate and the honorable the House of Representatives of the United States of America in Congress assembled that they urge the submission of the constitutional amendments now pending in Congress requiring United States Senators to be elected by a vote of the qualified electors of the State.

They believe that the exciting and disturbing contest for seats in the legislature in many of the States has been owing in a great measure to impending contests for United States Senators.

In many States the sessions of the legislature are limited to a specified time, and much of this time has been wasted and consumed in a fruitless effort to elect Senators.

The temptation to corruption and the inducements to influence legislators by questionable means would be entirely removed if the election of Senators were transferred to the people. It is believed the business of the legislature should be confined to matters of legislation, and that the excitement attendant upon the selection of United States Senators by the legislature interferes to a great degree with that business. The growth of a public sentiment in this direction we believe to be grounded upon good reasons, calling for an amendment of the Constitution in this respect.

Resolved, That the governor be, and he is hereby, respectfully requested, upon his approval of this memorial, to forward a duly authenticated copy thereof, under the great seal of the State, to the Senators and Representatives in Congress from this State, in order that the same may be brought to the attention of the Congress of the United States.

GEO. W. HOYT,
President of the Senate.
JAY L. TORREY,
Speaker of the House.

Approved February 16, A. D. 1895.

WM. A. RICHARDS, *Governor.*

Wyoming primary laws, 1890, chapter 80; 1907, chapter 100. Rudimentary; optional.

In spite of 37 States demanding or adopting the indirect method of selecting Senators by vote of the people, in spite of all the evidence submitted to show universality of opinion, the will of the American people is refused the courtesy of a hearing.

Mr. President, I ask you, I ask the Senate, I ask the people of the United States, Do the people really rule?

The refusal of the Senate of the United States to perform its obvious duty in this matter of the submission of a constitutional amendment for the election of Senators by direct vote, while very important as the GATEWAY TO OTHER NEEDED REFORMS, is, however, merely characteristic of the Senate under the control of a party management that is ruled by a machine method unduly influenced by commercial allies and the so-called big interests. I shall presently show that the people can get none of the reforms they want while this unfortunate condition remains.

Mr. President, the unwearied and unconquerable Democracy in the opening declarations of its last national platform laid down the great issue that must next be settled in this country and said:

> We rejoice at the increasing signs of an awakening throughout the country. The various investigations have traced graft and political corruption to the representatives of predatory wealth, and laid bare the unscrupulous methods by which they have debauched elections and preyed upon a defenseless public through the subservient officials whom they have raised to place and power.
>
> The *conscience of the Nation is now aroused to free the Government from the grip of those who have made it a business asset of the favor-seeking corporations;* it must become again *a people's government*, and be administered in all its departments according to the Jeffersonian maxim, *"Equal rights to all and special privileges to none."*

SHALL THE PEOPLE RULE? IS THE OVERSHADOWING ISSUE WHICH MANIFESTS ITSELF IN ALL THE QUESTIONS NOW UNDER DISCUSSION.

THE GREATEST OF ALL ISSUES.

Mr. President, the greatest of all issues, not only in the United States but throughout the civilized world, is the issue of popular government, or the government of the people against delegated government, or government by convention, or government by machine politics.

The vital question is, Shall the people rule? Shall they control the mechanism of party government? Shall they have the direct power to nominate, to instruct, to recall their public servants; to legislate directly and to enact laws they want and to veto laws they do not want, free from corruption, intimidation, or force, as well as elect Senators who claim to represent them on this floor?

The most valuable speech on good government that was ever delivered in the Congress of the United States was, in my opinion, delivered by Hon. JONATHAN BOURNE, Jr., of Oregon, on Thursday, May 5, 1910, in which he sets forth this doctrine, and presents to the American people the triumph—*the permanent triumph*—of the people of Oregon over the corrupt and corrupting methods of machine politics in Oregon, and in which he sets forth the substance of the Oregon law.

These laws establish in fact and not in theory "the people's rule." They are as follows:

The Australian ballot law, which obviates the grosser forms of intimidation and bribery.

The registration law, applying to general or primary elections, by which a voter's right to cast one ballot and have it honestly counted is preserved, and by which dead men, fraudulent names, repeaters, and nonresidents can not be voted in Oregon.

The initiative and referendum, by which the people can initiate and enact into law any statute they want and veto any statute they do not want. The possible sins of omission and the possible sins of commission of the representatives of the people in the Oregon legislature are thus safeguarded.

The law of *publicity pamphlets*, published at state expense and sent to each voter fifty-five days before a general election, giving in brief *authoritative arguments for and against any public measure, authoritative arguments for and against any public candidate.*

The direct primary law, by which *party members* may nominate their own candidates and under which *the whole people* may choose between candidates so named by each party.

Statement No. 1, by which a candidate for the legislature pledges himself to the people of Oregon to elect the people's choice for Senator without regard to his individual preference.

STATEMENT NO. 1 IS OF VITAL IMPORTANCE.

The corrupt practices act, by which all improper acts are prohibited, such as promises of appointments, solicitation or acceptance of campaign contributions, distribution of anonymous letters, sale of editorial support, intimidation or coercion of voters, betting on elections, attempting to vote in the name of any other person, living, dead, or fictitious, and finally providing for complete publicity of campaign expenditures and strictly limiting the use of money by candidates or by their friends and allies or in their interest.

The right of recall, by which any public officer may be recalled from office by his electors on petition and a special election.

The Senator from Oregon well says:

"Mr. President, I reiterate that Oregon has evolved the best system of popular government that exists in the world to-day.

"The Australian ballot assures the honesty of elections.

"The registration law guards the integrity of the privilege of American citizenship—participation in government.

"The direct primary absolutely insures popular selection of all candidates and establishes the responsibility of the public servant to the electorate and not to any political boss or special interest.

"The initiative and referendum is the keystone of the arch of popular government, for by means of this the people may accomplish such other reforms as they desire. The initiative develops the electorate because it encourages study of principles and policies of government and affords the originator of new ideas in government an opportunity to secure popular judgment upon his measures if 8 per cent of the voters of his State deem the same worthy of submission to popular vote. The referendum prevents misuse of the power temporarily centralized in the legislature.

"The corrupt-practices act is necessary as a complement to the initiative and referendum and the direct primary, for without the corrupt-practices act these other features of popular government could be abused. As I have fully explained, the

publicity pamphlet provided for by the corrupt-practices act affords all candidates for nomination or election equal means of presenting before the voter their views upon public questions, and protects the honest candidate against the misuse of money in political campaigns. Under the operation of this law popular verdicts will be based upon ideas, not money; argument, not abuse; principles, not boss or machine dictation.

"The recall, to my mind, is rather an admonitory or precautionary measure, the existence of which will prevent the necessity for its use. At rare intervals there may be occasion for exercise of the recall against municipal or county officers, but I believe the fact of its existence will prevent need for its use against the higher officials. It is, however, an essential feature of a complete system of popular government.

"ABSOLUTE GOVERNMENT BY THE PEOPLE.

"Under the machine and political boss system the confidence of sincere partisans is often betrayed by recreant leaders in political contests and by public servants who recognize the irresponsible machine instead of the electorate as the source of power to which they are responsible. If the enforcement of the Oregon laws will right these wrongs, then they were conceived in wisdom and born in justice to the people, in justice to the public servant, and in justice to the partisan.

"*Plainly stated, the aim and purpose of the laws are to destroy the irresponsible political machine and to put all elective offices in the State in direct touch with the people as the real source of authority;* in short, to give direct and full force to the ballot of every individual elector in Oregon and *to eliminate dominance of corporate and corrupt influences in the administration of public affairs. The Oregon laws mark the course that must be pursued before the wrongful use of corporate power can be dethroned, the people restored to power, and lasting reform secured.* They insure absolute government by the people."

For the information of the Senate and of the country I submit as an exhibit to my remarks a copy of the Oregon and Oklahoma laws upon these important reforms so modified, explained, and digested that they may be conveniently used by other States and ask that they be printed as a Senate document. (S. Doc. No. 603.)

The initiative and referendum is the open door to every reform. Oregon, South Dakota, Montana, Missouri, Oklahoma, and Maine have adopted it. In Arkansas it is submitted to the people and sure to pass. In Nevada its enactment will soon be complete. In many States cities have the initiative and referendum in municipal affairs, Texas, Mississippi, Iowa, Colorado, Kansas, Nebraska, California, Washington, Idaho, North Dakota, Minnesota, Massachusetts in addition to the six States first named.

THE SECRET ALLIANCE BETWEEN MACHINE POLITICS AND SPECIAL INTERESTS.

Mr. President, the great evil from which the American people have suffered in recent years has been the secret, but well-known alliance between commercial interests and machine politics, by which special interests have endeavored and often succeeded in obtaining legislation giving them special advantages in Nation, State, and in municipalities over the body of the American people and obtained administrative and judicial immunity so that the laws have not been properly enforced against them; by which means they have enriched themselves at the expense of the American people; at the expense of Democrats and Republicans alike; by which private individuals have become enormously and foolishly rich and many millions of people intellectually, physically, financially, or morally weak have been reduced to poverty and to a condition of relative financial, industrial, and moral degradation.

Mr. President, the mad scramble for unneeded millions, the unrestrained lust for money and power has become a national and a world-wide scandal. How unwise it seems, Mr. President, when a man already has more than enough to gratify every want, every taste, every luxury, every wish that is within the bounds of reason or of common sense that he should still pursue a mad race for sordid wealth, using his great opportunities for good, not for the welfare of his poorer and weaker brothers, but to press them to hard labor through the artificial mechanism of corporate taskmasters like galley slaves sent to twelve hours of labor seven days a week, to degeneracy and ruin, as has been reported to this Senate through the protected iron and steel industries of Pittsburg (Pittsburg Survey) and at Bethlehem (Report of Secretary of Commerce and Labor).

What an evil influence over our national life is being exercised by the false social standards of lavish extravagance and wasteful ostentation, standards set by the thoughtless rich and imitated in graduated degrees by their satellites and admirers down through society to those who can not afford extravagance without injury or ruin. Our whole society is being injuriously affected by these false standards of "high living." People have automobiles who have no homesteads.

Mr. President, I regard it as of great importance that the country should understand the manner in which commercial interests are using the powers of government through the mechanism of machine politics.

Many men without the slightest intention of departing from the line of the strictest rectitude nevertheless engage in the political game and use machine politics for their own preferment, recognizing no better method and thinking it to be a fact that purity in politics is an irridescent dream, and content that they are themselves guilty of no criminal or gross immoral act. My comments on these matters are intended to have no application whatever to any individual in the sense of imputing to him a bad or depraved motive. It is the system which I attack.

All men where severely tempted are liable to err, and I believe our Government should be so changed as to protect the individual from temptation of any kind as we would protect a friend from exposure to disease.

Mr. President, I have no desire to seek partisan advantage by pointing out the weaknesses of government under present methods of party management. I should like to see the complete restoration of good government in the United States. It will require the most vigorous efforts of the honest men of both parties to restore the Government to a condition of integrity, where high purposes, honor, and the common good shall exclusively rule.

I call attention to a brief sketch in the American Review of Reviews, New York, April, 1910, of this condition in the State of New York, which is merely illustrative, for the conditions developed by Folk in St. Louis; the conditions of municipal corruption exhibited in San Francisco; the painful condition recently exposed in Pittsburg, where over 40 members of the municipal council and various bankers were found guilty of criminal conspiracy against the people; the condition of graft exhibited in the capitol building in the sovereign State of Pennsylvania; the condition of corruption known to exist in Philadelphia, New York, and Boston are merely illustrative of the frailty of human beings subjected to temptation under a defective form of government. The condition portrayed by the Review of Reviews, edited by a great Republican editor, is but a slight exposition of a widespread evil, which requires active cooperation of all upright men to abate and eradicate.

I ask the Secretary to read this article from the Review of Reviews for April, 1910.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

GOVERNMENT VERSUS BUSINESS.

The people of the United States are trying to work out proper relations between law and government on the one hand and the modern forms of business life on the other hand. The Roosevelt administration awakened the country to the need of such adjustments, and it succeeded in accomplishing something toward bringing about the desired reforms. It was left for the Taft administration to propose an end of the period of agitation, and to find stable and workable solutions for various problems arising out of changed economic conditions. Almost everything in the political and legislative news of the past few weeks has had something to do with this struggle for right relations between business and government. The legislative disclosures at Albany, and the contest for the control of the Republican organization of the State of New York, would all be meaningless if not interpreted as phases in the fight to relieve the government of the Empire State from domination through the power of money furnished by business interests seeking their own advantage.

THE NEW YORK SYSTEM.

The boss system in New York has had nothing to do with political leadership in a true sense. The boss has been the man who took the money from the corporations and then distributed it *in such a way as to preserve his own power,* while also making it certain that the corporations would contribute again the next year, and that the ultimate recipients of bounty would be willing again to receive it and *glad to feed out of the boss's hands.* The demoralization of the New York legislature for many years past has been due simply to *ill-adjusted relationships* between business enterprises and the power of law and government. Perhaps the very least and smallest of the scandals of this New York period are those which through accident came into light some weeks ago and compelled the investigation at Albany of charges against the newly chosen leader of the state senate. It is commonly believed that the instance of alleged bribery, upon which the long-drawn-out Allds-Conger inquiry has turned, is *merely a minor illustration* of a system that meant the buying and selling of legislative favors on a large scale. Governor Hughes himself is now carrying on an investigation into the purchase of lands for the Adirondack forest reserve. It is charged that large areas of land which have reverted to the State through nonpayment of taxes after the valuable timber had been cut off were purchased *for a few cents an acre at tax sales,* and then bought again by the State for the forest reserve *for several dollars an acre,* all phases of the business being conducted by grafters more or less directly connected with the Albany legislative machine.

ALL IN THE NAME OF "PARTY."

Such are the charges, and Governor Hughes is likely to get at the bottom facts before he drops the subject. Superintendent Hotchkiss, of

the state insurance department, has also on hand some investigations that point to bribery and corruption in the legislature in connection with the affairs of various insurance companies. Most scandalous allegations have been made concerning the squandering of many millions of dollars in the condemnation and purchase of lands for the Catskill water supply that is to cost New York City at least a hundred million dollars. All these things, and various others that might be named, are a part of that famous New York "system" that *has made politics profitable for professional politicians.* This is what has built up in the Empire State the closely knit "organizations," so called, of party men, with their false theories of leadership and their *impudent talk about party regularity.* They have invented *a doctrine of party obedience that has been used for the benefit of the weak-minded, who like to think they have consciences,* and who wish to justify in some way their good and regular standing in militant parties, even though deep down in their hearts they know that the "Black Horse Cavalry" at Albany is usually in the saddle and in the van.

A TWO-PARTY ARRANGEMENT.

The simple reason why it is so hard for the State of New York to shake itself free from the system that has heretofore controlled the legislature is because *it has been a bipartisan* system. *Tammany Hall* and the *Republican machine* have for many years been *supported by the same interests.* The chief business of the legislature of New York for a generation, it would seem, has been *to sell indulgences.* Millions of dollars, it is said, have been paid by all sorts of interests—transportation companies, lighting companies, telephone companies, insurance companies, and so on—mostly under the *guise of political contributions* or *counsel fees,* in order to obtain desired privileges or to prevent the passage of some measure deemed harmful. The contributors of these funds have only cared to secure results. How the money was distributed was something they did not wish to know. The Republican part of this money was doubtless used very largely for the purpose of maintaining the system of so-called leadership and regularity. Republican regularity in the State of New York has long meant that "*good Republicans" must not do too much thinking,* but must obey orders. *Orders* are supposed *to come from the leader. Leadership centers at the point where campaign funds are received and disbursed.* A liberal disbursement of funds, on a plan systematically conceived and worked out, has usually *made it worth while* for *Republican* members of the legislature to *work loyally in the organization* and *vote as the leaders dictate.* The *local party papers* throughout the State have also been *made to realize* the *desirability* of *supporting the organization* and taking their *respective places* within *the system.* Independence has been risky and expensive.

THE CONTROLLING FACTORS.

This wonderful Republican machine in the State of New York could never have had so long, prosperous, and powerful a career but for two highly important facts. One of those facts is the immensity of the private interests which have been able and anxious to support a system that would keep law and government in subservience. *The other fact has been the existence of Tammany Hall, a great private conspiracy for the purposes of plunder, which has controlled so large a block of the Democratic members of the legislature, in close and profitable alliance with the Republican machine, that it has never been possible to use one party in the State of New York as an instrument for punishing the venal methods of the other party.* Furthermore, *it must not be supposed that anything like a majority of the members of the New York legislature have been in the habit of lining their pockets with thousand-dollar bills by reason of a cold-blooded, deliberate acceptance of bribes. Very many of them have simply been lacking in a proper sense of their personal responsibility as lawmakers.* They have sheltered *themselves behind a false theory of party responsibility.* They have found it *safe and comfortable* to be regular, and to give the machine the benefit of their own personal respectability, in exchange for having the state central committee give them support in their districts, and otherwise *keep their political paths smooth and pleasant.*

The Review of Reviews I have always regarded as a Republican publication, and therefore regard the quotation I have given as the admonition of a friend and not a mere hostile, biased criticism.

I summon only one other witness, although I could give a multitude—GEORGE WILLIAM NORRIS, of Nebraska, the leader of the Republican insurgents in the House of Representatives, a man whose fidelity to the principles of the Republican party can not be questioned. In the Woman's National Daily, Saturday, May 21, 1910, Mr. NORRIS made the following statement, which shows that behind the protection afforded by the rules of machine organization special interests seek shelter and immunity from the law.

Without objection, I will simply insert in the RECORD Mr. NORRIS's comments.

The VICE-PRESIDENT. Without objection, the request is complied with.

The matter referred to is as follows:

[From the Woman's National Daily, Saturday, May 21, 1910.]

THE MEANING OF INSURGENCY.

(Written for the Woman's National Daily by Representative GEORGE WILLIAM NORRIS, of Nebraska.)

I am asked to define insurgency as it exists in the National House of Representatives. The term "insurgent" was originally applied as an epithet of derision to those Members of the House of Representatives who asked that the rules of the House be changed, by taking away from the Speaker some of his extraordinary power.

The principle for which they stood is one which is fundamental, if we would retain a representative government. It is a greater and more important question than any concrete legislative proposition that has been before Congress for many years.

It has been well known of all men that the Speaker of the House of Representatives possessed a power that was second only to that of the President of the United States; and, in some respects and in some instances, it was even greater than the President's power. This power was given to the Speaker entirely by the rules of the House, and a few Members claimed that this power should be taken away, and that the Speaker should not be able to control arbitrarily the votes and the consciences of the individual Members of the House; and because they had the effrontery to boldly demand that the Speaker's power should be curtailed they were called insurgents. And this same power which they were fighting was at once used to deprive them of all influence.

The insurgents, while united upon the question of the abridgment of the Speaker's power, were not pledged to any particular line of legislation. For instance, some of them desired a high tariff, while others were advocates of a low tariff; but they all agreed that the tariff question should be determined by the membership of the House and not by any self-appointed board of control. Some of them were in favor of postal savings banks; others were opposed to it; but all of them concurred that the membership of the House should have the right to determine by their individual votes the question of postal savings banks, and that the question should not be determined and disposed of by the Speaker alone.

They were not advocating any particular legislation; they were all standing for the individual right of every Member to have his portion of influence in legislation and to bear his part of the responsibility for the same. It was a question, therefore, that reached to the very foundation of representative government.

A STAND FOR PRINCIPLE.

The insurgents stood for a principle—that of permitting every Member to be untrammeled in his vote and in his action; to be absolutely free to represent his constituents without fear of punishment from a self-constituted machine and without hope of reward from patronage distribution.

It is difficult for an observer, especially at a distance, to realize the wonderful influence the Speaker exerts over legislation. The power of the Speaker to appoint all the standing committees and to completely dominate and control the Committee on Rules gave to that official a tyrannical control of legislation that completely eliminated individual action and individual representation in the House. Intrenched behind the rules of the House were all the special interests that at any time expected to be interested in national legislation, and had the insurgents known at the beginning of their fight the wonderful power and the unlimited means at the disposal of the Speaker and his machine, they would, perhaps, have hesitated, if not declined altogether, to enter the fight—a fight which, while waged entirely for principle, endangered their very political existence.

They did not know, for instance, at the beginning that Standard Oil had any interest in the rules of the House of Representatives.

They were not aware that Tammany was safely intrenched behind these same rules.

They had no idea that the brewers of the country were depending on these rules to prevent an increase of the internal-revenue tax on beer in the last tariff act.

And yet, on the 15th day of March, 1909, when the first great battle was fought between the insurgents and the machine, it was discovered that all these interests were combined in the effort to retain the old rules of the House and to have adopted the so-called Fitzgerald amendment.

It was soon discovered that the machine against which the insurgents were compelled to fight, while having its head in the Speaker's chair in Washington, really extended to every city and hamlet in the United States, as evidenced by the influence brought to bear upon the different Members from all parts of the country in an effort to induce them to stay by the Speaker and save the machine from ruin.

The insurgents have stood for a principle nonpartisan in its nature and beyond and above partisanship. The right to be independent as a Representative in Congress and to follow the dictates of individual conscience is a principle that can not be defeated or submerged by the cry of partisanship.

NONPOLITICAL POLITICS.

The history of the House of Representatives will show that when the Republicans are in control the Democrats are always fighting the rules, and when the Democrats are in control the Republicans are the complainants. The special interests are Republican when the Republicans control and Democratic when the Democrats control. The real machine, however, knows no politics, and by machine methods all political parties are controlled in identically the same way. In desperate cases, when the life of the machine has been found to be in danger, there have been instances where the political machine of one party has been uncovered in the effort to save the life of the political machine of the opposite party. This was illustrated when Tammany, a Democratic organization, came to the assistance of the Republican machine in retaining the old House rules.

It does not require any particular courage for a Democrat to fight the rules of the House when the Republicans are in control, neither does it mean very much when a Republican is fighting the tyrannical control of the Speaker when the Democrats are in control. But the insurgents came out into the arena and opposed this power of the Speaker while their own party was in control of the House, thus bringing upon themselves the censure and the condemnation of the self-constituted and self-appointed machine and the so-called—and we hope temporary—leadership of their party in the House.

They were charged with being false and untrue to their own party. This charge—known by those who made it to be without truth and without foundation—was preferred in order to injure the standing at home of the so-called insurgents, and possibly to influence them in Washington by an appeal to their party pride. Those of the so-called regulars who oppose the insurgents and defend the old rules of the House make no argument in defense of the rules where the attack is made.

The insurgents have never stood for any proposition for unlimited debate in the House; have not asked that the so-called Reed rules be changed. They have not asked that the Committee on Rules should be abolished or that its power to make special or privileged reports be curtailed. And yet when the Cannonites come to the defense of the machine they invariably do so by pointing out the chaos that would follow the right of unlimited debate or the overturning of the ruling adopted by ex-Speaker Reed wherein he counted a quorum.

Insurgency means the preservation of republican government. It is greater than the question of the tariff or of railroad-rate legislation, or any other question of legislation, because it represents a principle that is fundamental, and because without the principle for which it stands being established we can have no legislation that is representative of the people, but only such legislation as is satisfactory to the machine which controls.

THE REAL ISSUE.

Because this machine happens to be headed by a Speaker whose thirst and liking for power have made him more brazen than any of his predecessors is no sufficient reason why the issue should be made an individual one instead of one against the real machine.

The issue is Cannonism, not CANNON the individual—not CANNON the man, who, as a matter of fact, has been shorn of a great amount of his power and is facing now his long-deserved defeat.

Cannonism is the issue. It is a word which has really been coined to represent opposition to change—opposition to progress; obedience to domination—obedience to favored interests. It represents a power exerted for the perpetuation of evils which have already too long existed. Cannonism represents property rights, while insurgency represents individual rights—representative rights. Insurgency means the rights of the people, through their chosen Representatives, to legislate for the people. Cannonism means the control of these legislative elements so that the rights of property shall be placed above human rights. Insurgency, while not denying the right of wealth or accumulation of property to the proper protection of law, stands for the control of such aggregated wealth and the subserviency of the rights of such wealth to the rights of the individual. While insurgency, as stated above, does not mean any particular legislation, yet it does mean that if the people, through their chosen Representatives, desire any particular legislation they shall have the right to it and shall not be prohibited from receiving it at the behest of accumulated wealth or well-organized political machines.

Insurgency does not mean the disruption of the Republican party; it means its purification, its enlightenment, its advancement; it means equal rights and equal privileges, and is opposed to machine rule, machine control, and corporate domination. It places country above party, the man above the dollar, the individual above the machine.

THE BIPARTISAN ASPECT.

Mr. OWEN. Mr. President, I shall not offend the columns of the CONGRESSIONAL RECORD with the multitudes of instances of corruption in municipality, city, or federal government, with which the public press has been constantly filled. The corruption shown in St. Louis by Mr. Folk; in San Francisco by Heney; in Chicago; in Pittsburg, where more than 40 members of the city council were indicted for graft; in Albany, N. Y.; in Harrisburg, Pa.; in New York; in Boston; in Philadelphia. The wide prevalence of corruption in government in our great Republic is a deep national disgrace. The number of egregious instances is both shocking and amazing. This nation-wide evil is, however, directly due to the weakness of human nature and the defective mechanism of party government which has unavoidably developed under a system of machine politics, with its corrupt and corrupting methods, which subjects men to temptations that too often prove irresistible. The evil, under such a bad system, would arise under any party in power, and can be absolutely eliminated and eradicated by the laws I propose.

A distinguished statesman once said that the idea of purity in politics was an iridescent dream.

The people retired him, and thereafter he described himself as "a statesman out of a job."

He neglected his opportunity to find a remedy and point it out. Yet he was a well-meaning man, an orator and a scholar of great ability, but he saw no way out.

PURITY IN POLITICS.

It is not true, Mr. President, that purity in politics is an iridescent dream. It can be made a reality through the Oregon system of popular government and by the overthrow of the imperfect mechanism of party government which has evolved the bad system of machine-rule government. The remedy for the evils from which our national, state, and municipal governments have suffered is to restore the rule of the people—to restore the full powers of government to the people by the Oregon system; to pass laws by which the people can directly nominate, directly initiate laws they do want, directly veto laws they do not want, directly recall public servants, by which the people can set aside political mercenaries, who often seize upon the reins of party control under color of party enthusiasm with the cold-blooded, criminal purpose of selling government favor for profit or power. I pray the leaders of all parties to promote the rule of the people by the Oregon system.

The people have no sinister purposes. The people will not sell out.

The people are "safe and sane."

The people are conservative and sound.

The people are honest and intelligent.

The people would vote for the public interest alone and would not vote for purely selfish private interests.

The people would not grant ninety-nine year or perpetual corporate franchises or legislative privileges of enormous value without adequate consideration.

The people would not deprive any persons of their just rights.

Under the rule of the people the issue of world-wide peace would be raised and would, by popular vote of all nations, be made a permanent international law.

The people know more than their Representatives do, and are less passionate and less liable to be led into either internal or international complications.

The people are worthier to be confided in than any individuals trusted with temporary power.

The people would be economical in government.

Under the rule of the people, with the right of recall, their public servants would be more upright, more faithful, more diligent, more economical, and more honest; the public service would be purified; the bad example of corruption and extravagance in high places would be removed and new and better standards of public and private conduct would prevail.

The servants of the people would then concern themselves more in bringing about the reforms which the people desire.

IF THE PEOPLE REALLY RULE, WHY DON'T THE PEOPLE GET WHAT THEY WANT?

Mr. President, "popular distrust of our legislative bodies is undermining the confidence of the people in representative government." It is promoting radical socialism and developing elements of criminal anarchy.

It is developing forces that have in past history overthrown governments and destroyed the existing order.

The people desire many things which they are entitled to receive, which have been promised to them, and which have been withheld or at least not delivered by their public servants, who in reality make themselves the masters of the people when trusted with power.

The people want lower prices on the necessaries of life and the reduction of the tariff. Why don't they get it? They were promised reduction, but they got a higher tariff and higher prices than before.

Why do they not get reciprocity? It has been repeatedly promised in party platforms and on the hustings.

Reciprocity was the policy repeatedly declared by Blaine and McKinley, and it was again proclaimed in the Republican national platform of 1904, upon which McKinley and Roosevelt were elected, confirming the policy upon which the people had previously trusted the Republican party with power.

But the Republican organization in the Senate on March 5, 1903, finally defeated every reciprocity treaty negotiated under the authority of the "Act to provide revenue for the Government, and to encourage the industries of the United States," approved July 24, 1897, to wit: The convention with France, submitted December 6, 1899, agreement extending time to ratify; submitted March 21, 1900; again March 9, 1901; December 4, 1902, and so forth. Recommitted March 5, 1903. In like manner were smothered and killed the following reciprocity treaties:

The convention with Great Britain, March 5, 1903; the convention for Barbados, March 5, 1903; the convention for British Guiana, March 5, 1903; the convention for Turks and Caicos Island, March 5, 1903; the convention for Jamaica, March 5, 1903; the convention for Bermuda, March 5, 1903; the convention for Newfoundland, March 5, 1903; the convention with Argentine Republic, March 5, 1903; the convention with Ecuador, March 5, 1903; the convention with Nicaragua, March 5, 1903; the convention with Denmark for St. Croix, March 5, 1903; and so forth, and so forth.

The people want lower prices and the reduction of the tariff. Why don't they get it? They were promised reduction, but they got a higher tariff and higher prices than before and shameful "*retaliation*" instead of honorable "reciprocity."

The people want the control of monopoly and the reduction of the high prices of monopoly. Why don't they get it? All parties promise it, yet Moody's Manual shows that the gigantic monopolies have rapidly grown until their stocks and bonds comprise a third of the national wealth. They aggregate over thirty thousand millions of dollars. Moody's Manual for 1907, page 2330, gives over 1,000 companies absorbed or merged by or into other companies for 1907, and these conditions grow worse each year.

Organized monopoly controls the meat market; controls the selling price of beef, mutton, pork, fowls, and every variety of meat.

Organized monopoly controls the prices of all bakery products and candies and preserves; controls the prices of all canned goods and tropical fruits; controls the price of sugar and salt and spices. Monopolies control everything that goes on the table, as food, as tableware, china and glass ware, and the price of the table itself; controls the price of everything that enters the house, the furniture, the carpets, the draperies; controls the price of everything worn upon the back of man, of woolen goods, of linen goods, of silk goods, of cotton goods, of leather goods. They control the price of all materials of which buildings are constructed—lumber, iron and steel, cement, brick, plaster, marble, granite, stone, tile, slate, and asphalt. They control paper and stationery goods, iron, copper, and steel and metals and goods made of these materials. They control dairy products; they control railways and steamship lines, telegraph, telephone, and express companies. They control everything needed by man, from the cradle which receives the baby, and the toys with which a child plays, to the casket and the cerements of the grave.

They have raised prices 50 per cent higher than the markets of the world, and their apologists, the political allies of commercial monopoly and their intellectual mercenaries, fill the public press with solemn argument about the quantitative theory of money and the increase of gold as explaining and justifying high prices.

The whole world is staggering under the high prices of monopoly, and the people of the United States are afflicted with prices 50 per cent higher than those paid by the balance of mankind. The people ask for bread and they get a stone. They ask for lower prices and they get a Senatorial investigation as to the causes of high prices, and the causes of high prices when ascertained by this unnecessary and absurd research will unquestionably be used as a special plea and as an apology and pretext for denying the reasonable demand of the American people for the restraint of monopoly and the lowering of prices.

These high prices mean that it takes $150 to buy what $100 bought before and ought to buy. It is very hard on domestic servants, all of whom are asking higher wages. It is very hard on people with fixed salaries or of small fixed incomes and annuities and with pensions. These artificial high prices make the few, the monopolists, very rich, but they sorely, painfully tax the living of the poor.

This policy is justified neither by common sense nor by patriotism.

The people demand a fair price for their crude products, for their cattle and hogs and sheep and the corn and hay and grass fed into these domestic animals and marketed. The beef trust artificially fixes the price of what they produce, without competition, at an unfair price, and no remedy is afforded. The tobacco trust fixes the price of their tobacco, and is stirring up the night riders' rebellion with its ignorant, criminal, and pitiful protests, by stealing the value of the labor of the tobacco raiser by artificial prices and no relief is given.

The thief uses the sword of the State to punish the protest of its victim, who in blind passion violates the law of the Government that does not protect him. It is a sorrowful sight.

Gamblers in the market places undertake to force prices of wheat, corn, oats, and cotton back and forth for gambling purposes and no relief.

Is it any wonder the people abandon the farm and find a worse condition in the grinding competition of labor in our great cities, where monopoly again fixes the price of labor? Is it any wonder labor makes violent efforts to protect itself and to protect the wives and children, who look to them for protection?

IF THE PEOPLE RULE, WHY DO THEY NOT GET WHAT THEY WANT?

The people have been promised the control of monopoly. Why do they not get it? Are the people in control of Government, or are the trusts in control? Do the people really rule?

The people do not approve blacklisting of employees by the tariff-protected monopolies, yet they get no relief.

The people do not approve the grinding down of wages by the protected monopolies, from which brutal policy, poverty, crime, inefficiency, sickness, and death must unavoidably follow.

WHY DO THEY GET NO RELIEF?

The people desire an *employers' liability act*—eight hours of labor and one day of rest in seven and sanitary housing for labor. Why do they not get it? Is the demand unreasonable? Has not the condition at Pittsburg, the center of the great system of American protection, been fully set forth by the highest authority, by the trained experts of the Russell Sage foundation?

Did they not point out twelve hours of labor seven days in the week as the usual rule, impure water, impure food, insanitary housing, sick women and children? Does not the recent report of the Department of Commerce and Labor of the Bethlehem Company confirm it? Why is there no relief from these hideous conditions of American life?

The people do not approve twelve hours of labor for seven days in the week that makes of man a pitiful beast of burden and destroys his efficiency and life. The Sage Foundation pointed out these tragical conditions at Pittsburg, as I have heretofore pointed out to the Senate; the Department of Commerce and Labor has reported to the Senate a like condition at the Bethlehem Steel Works, in answer to a resolution of the Senate offered by me.

Why is there no relief or attempt at relief?

The part which the United States Steel Corporation has played in promoting political campaigns is an open secret and furnishes one of the obvious reasons why relief is not afforded.

The people would like publicity of campaign contributions, and a thorough-going corrupt-practices act. Why do they not get it?

Who is interested in maintaining the corrupt practices? Do not the people desire corrupt practices stopped?

Who opposes publicity of campaign contributions? Do not the people wish publicity of campaign contributions and effective control of the use of money in campaigns?

The people desire to control gambling in agricultural products. Who is concerned in maintaining this evil system of gambling in wheat and corn and oats and rye and cotton? Do the people desire this gambling to continue, and would it continue under the rule of the people?

The people despise the legislative treachery of the so-called "joker" in their laws which defeats the implied promise of relief in the law. When the people rule this legislative trickery will cease.

Oh, it is said, Mr. President, that the people do not know what they want nor how to govern themselves directly, but only by representatives.

I emphatically deny it. The demonstration in Oregon is a final answer to such shallow pretenses. I confess for the most part they are an unorganized mob in politics; that for many years they have trusted political parties managed by machine methods; that they do not select candidates or issues; but Oregon and Oklahoma point a new and safe way to correct this deficiency.

The people wish the gambling in stocks and bonds to be terminated. Why does the Senate not act? Why does not the Congress act and forbid the mails to the most gigantic and wicked gambling scheme the world has ever known—a gigantic sponge, which absorbs by stealth and craft hundreds of millions annually from foolish trusting citizens, misled by false appeals to their avarice, cupidity, and speculative weaknesses, derisively called "the lambs," who pass in an unbroken stream to slaughter on the fascinating altars of mammon.

Why are the reserves of the national banks not used exclusively for commerce, but used instead as an agency of stock gambling and overcertification of checks as a chief auxiliary? I tried my best in the Senate when the financial bill was pending in 1908 to amend this evil condition, but the Senate will remember the denial of that relief.

Why is there no control *of overcapitalization* of the *overissue of stocks and bonds of corporations*, another means by which the people are defrauded?

Why is there *no effective control of railroad, passenger, and freight rates* after forty years of agitation? Do the people want reasonable railroad rates, or do the people conduct the Government of the United States?

The present discussion of railroad freight rates on the floor of the Senate and on the floor of the House is almost entirely in vain, because the jury is not a jury in sympathy with the people, but a jury that, most unfortunately, *under machine rule*, can not be free from the influence of the enormous power of the railroads in politics. The debate is well-nigh useless, and for this reason will amount to nothing in the way of substantial relief to the American people, except to defeat a skillful raid planned against the people under color of serving them.

Why is there *no adequate control of the discrimination of railways* against individuals, or discriminations in favor of one community against another?

The people are opposed to these discriminations, but their representatives, the party leaders who are in power, do not adequately represent the reasonable desires of the people.

Why is there no physical valuation of railways (giving the railway companies generous consideration of every value they are entitled to) as a basis of honest freight and passenger rates? The Interstate Commerce Commission has repeatedly advised us that it was essential and necessary, but yet there has been no response from the authorized representatives of the people.

IF THE PEOPLE RULE, WHY DO THEY NOT GET WHAT THEY ARE ENTITLED TO?

Why is there no parcels post? Would it serve the interest of the people and protect the deficit of the Post-Office Department? Undoubtedly. But the great express companies have such political power with the dominant representatives of the people that the dominant representatives do not justly represent the people, but represent instead those who contribute money and influence secretly to campaign funds.

Why do we not have *a national development of good roads*, cooperating with every State and county in the Union?

The people undoubtedly want it and undoubtedly need it.

Why do we not have *a systematic development of our national waterways?* The people want that, but the recent rivers and harbors bill, appropriating fifty-two millions, spent many millions on local projects with political prestige, but without a thoroughgoing national design.

The people desired *a pure food and drug act*, and it took a long time to get it, and *its administration now is made almost*

impossible by the influences over government of self-promoting commercial interests.

Why is equality of opportunity being rapidly destroyed and absorbed by corporate growth and power without any protection of the young men and of the young women and people of the land? Do the people want equality of opportunity? Was it not promised in the Republican platform?

The people universally desire an income tax. It was defeated in the Supreme Court by a fallacious argument, which I have heretofore pointed out, and will probably be defeated as a constitutional amendment, because of machine rule and the influence of private interest with machine rule, which is more potential than the public welfare.

Why do the people not get a progressive inheritance tax on the gigantic fortunes of America? The people want it. Every nation in Europe has it, even under monarchies, as I have heretofore shown, with the most exact particulars.

Common honesty and fairness demands it, its constitutionality is affirmed by the highest courts, and it would not offend the feelings of the most avaricious multimillionaire at the time of its enforcement—after he was dead.

Why do we wait so long for the admission of Arizona and New Mexico? For years it has been promised; for years those people have waited upon the administration of justice by the Congress of the United States.

Finally, Mr. President, *why do we not have election of Senators by direct vote of the people?* The elected representatives of the people in four preceding Congresses have, by a vote substantially unanimous, favored and passed resolutions for this purpose. Did they represent the people of the United States? Thirty-seven States now stand for it. Do they represent the people of the United States? All the great nonpartisan organizations of the country, the American Federation of Labor, the Society of Equity, the National Grange, the Farmers' Educational and Cooperative Union, and every one of the great political parties with the exception of the dominant party, in its national platform, and even here a majority, a great majority, of Republican States favor it and have so expressed themselves, and yet no action. Nine-tenths of the people want it, and the Senate of the United States defeats it, and the Senator from Idaho [Mr. HEYBURN] amuses the Senate by calling this mature judgment of the American people "popular clamor." It is enough to make the Senate laugh, this mirth-provoking "popular clamor," evidenced by the insane legislatures of Idaho and Kentucky.

Is it wrong to inquire—

DO THE PEOPLE RULE?

Everything that they stand for and desire is defeated. All of the great doctrines that they have been urging forward are obstructed. Some of the Republican leaders say, "Yes; the people rule through the Republican party." My answer is, Mr. President, that *if the people ruled through the Republican party, they would have long since answered their own prayers and demands favorably and not denied themselves their own petitions.*

Mr. President, the evils which have crept into our Government have grown up naturally under the convention system, not through the faults of any particular man or any particular party. I believe in the integrity of the great body of the Republican citizens of this country, but I have little patience with pure machine politics guided by selfish interests in either party. The system of delegated government affords too open and abundant opportunity for commercialism and for mere self-seeking political ambition.

It has seized upon the party in power, as it always seeks to do with the party that *can deliver*, and it will be a task of enormous difficulty to purge the party in power of these dangerous and sinister forces, if, indeed, it do not prove utterly impossible except by its retirement from power.

In some cases delegated government, even under a machine form, is perfectly upright, perfectly honest, and serves the cause of the people excellently well, but the mechanism of government by the delegate plan affords too great opportunity for the alliance of commercialism and political ambition. An ordinary state convention, under the machine-rule plan, is composed of delegates delegated from county conventions; the county conventions consist of delegates delegated from the ward primary; the ward primary consists of a ward boss, a bouncer or two, and a crowd of strikers who do not represent the actual membership of the party voters of that ward, so that when a Senator is nominated by a state convention he is often three degrees removed from the people, and is the choice of a machine and does not really feel fully his duty to the inarticulate mass.

It will be better for this country when Senators and Members of Congress and state legislators and municipal legislators are chosen by the direct vote of the people and when the people have the right of recall by the nomination of a successor to their public servants. The people will never abuse their power.

The great political need in the United States is the establishment of the direct rule of the people, the overthrow of machine politics, the overthrow of corrupt or unwise use of money, intimidation, coercion, bribery; the overthrow of the various crafty corporate and political devices which have heretofore succeeded in nullifying the will of the people.

The great issue is to restore the direct rule of the people as members of parties and within both parties, and to abate the malign influence of machine methods.

The great issue is to enable the members of the Republican party to control it, to provide *a mechanism by which the members of the Republican party,* for example, *can really nominate their own candidates for public office and for party office,* and then *require their elected representatives to represent* the people who elect them and make effective the will of the party members who have nominated and elected them.

The great issue is to enable the members of the Democratic party *to directly nominate their own candidates, both in the party itself* and *for public office,* and then require such public servants so nominated and elected to represent the people who nominated and elected them under penalty of the recall or under the safeguards of the initiative and referendum.

All the people now have is the power to defeat on election day a bad candidate, and thus they exercise some influence over nominations. The people do not in reality rule.

The people appear to rule through the present machinery of party government, but they do not rule in fact, because the party machinery is so largely in the hands of machine men, is so largely controlled in the interest of the few and against the interest of the many; because the present mechanism of party management is so contrived as to largely exclude automatically the cooperation of the great body of the members of the party, and is so contrived as to cause the party power to fall by gravity into the hands of professional managers.

The remedy for these evils is to restore the government of the people and to modify the present mechanism of party government, so the party members may conveniently control their own party.

In order to accomplish this there must be—

First. *An honest and effective registration law.*

Second. *An honest and effective ballot law.*

Third. *A direct primary law,* properly safeguarded, by which candidates for public office and for party office may be directly and safely nominated.

Fourth. *Constitutional* and *statutory laws providing the initiative and referendum,* by which the people may directly legislate, if the legislature fail, and may directly exercise the veto power over an act of their representatives in the legislature if a law is passed they do not want.

Fifth. *A thoroughgoing corrupt-practices act,* forbidding election rascalities, prohibiting the use of money, and providing full publicity.

Sixth. *An act providing for the publicity pamphlet,* giving the arguments for and against every measure, the argument for and against every candidate, and putting this pamphlet in the hands of every citizen before each election for his information and guidance.

Seventh. *The right of recall.*

In order to get relief from the evils, a few of which I have tried to point out, these important statutes must be written on the statute books of every State, and the machine must not be allowed to fill them full of "jokers." *The machine must not be allowed to change a word of these laws that does not stand the approval of the friends of the rule of the people.*

In order to have these laws passed by the state legislatures, *every candidate for membership in the legislature should be questioned* and his written answer demanded by authorized committees of the people—committees partisan and nonpartisan, committees Republican and Democratic, committees of all parties, committees of the American Federation of Labor, of the Farmers' Union, of the Grange, and of other organizations of free men, operating together whenever convenient.

The candidates for the legislature who refuse to agree to support cordially the legislative programme of the people's rule deserve to be defeated as they were defeated in Oklahoma in the campaign for the constitutional convention in 1906. Question the candidates on the people's rule.

No candidate can expect, or ought to expect, the vote of the people when he defies the right of the people to rule.

The Democratic party inscribed on its banners in the last national platform the doctrine of the people's rule, and I do

hope all Democrats will do what they can to make effective the platform declaration by concrete laws.

The enemies of the people's rule obscurely discourse about destroying representative government. Nobody should be deceived for a moment by this illogical, unreasonable, unfounded, and utterly absurd pretension. It is the argument of the machine and should brand the proponent as an enemy of popular government.

My representative represents me best when he receives my instruction and when I retain the right to instruct him and to recall him and to act independently of him if necessary.

I firmly believe in representative government.

Those who stand for the people's rule programme believe in representative government.

It is representative government they want.

It is representative government they demand.

It is representative government they insist on.

The end of misrepresentative, corrupt machine government is the corollary of this demand and its necessary complement.

I trust to see the time come, Mr. President, when the citizen can vote with full knowledge and by secret postal ballot, to be counted at state headquarters and registered with the same certainty, secrecy, and security that his check would be registered in a bank office, without cost, without inconvenience, and at his leisure.

Only by the overthrow of corruption in politics and by the elimination of the sinister influences of commercialism will the people of the country ever be able to consider dispassionately the great matters of public policy which are so essential to their future development and welfare. When we shall have purged our Government of dishonest methods and have provided a means by which the people can intelligently and honestly rule; *when we shall have provided a mechanism by which the people can authoritatively express themselves, they will vote for universal peace. The people of the United States to-day, if they could vote on the question of international peace, on the question of limiting the armament of nations, would heartily be in favor of it. The people of Germany would vote the same way. The people of Great Britain would vote the same way.*

The danger of war arises not from the people, but from ambitious leaders, anxious for activity, anxious for service, anxious for promotion. The dogs of war in every nation are anxious to fight, and commercial interests engaged in furnishing the muniments of war, in furnishing material for building battle ships, fill the press with rumors of war when the naval appropriation is before Congress and these things tend to irritate nations with each other.

The international mischief makers, who prate too much about the excessive delicacies of questions of national honor that can only be settled by the arbitrament of war, should be sternly suppressed and would be rendered powerless for harm under the rule of the people.

If the people could express themselves, they would immediately vote for good roads, improved waterways, wholesale education, eight hours of labor, improved protection of the public health, lower prices, reasonable control of public-utility corporations, reasonable freight rates, reasonable rates by express, telephone, and telegraph, the right of direct legislation, and to control their public servants.

Mr. President, the citizens of the great Republic wait in vain for substantial relief, while machine politicians in State and municipalities growl at each other; but the Democrats and Republicans at home and men of all opinions are robbed with perfect impartiality by the organized monopolies and trade conspiracies of this country. I am unwilling to see the people wait any longer.

Mr. President, the people's rule is the only way to end political corruption, and I am rejoiced to see the great American press giving the question of the new system of government vigorous attention. With the active help of the newspaper men of the United States this system will be in control of the United States in two and a half years.

The newspaper men who appreciate the gradual closing of the doors of opportunity for young men by the gigantic growth of monopoly will stand for the rule of the people, as the doctrine of organized righteousness and as *the soundest safeguard of property rights* as well as of human rights.

Unrestrained organized greed can not oppress human beings too far without explosive consequences of far-reaching danger to property rights.

The compilation of laws, with explanatory notes, which I have submitted as a Senate document, looks to the restoration of the rule of the people of the United States; and when I say people, I mean the rule of the Republican people, the Democratic people, the independent people, the Socialist people, and the Populist people. And, Mr. President, I ask that it be printed as a Senate document. (S. Doc. No. 603.)

The PRESIDING OFFICER (Mr. KEAN in the chair). The Chair hears no objection to the request of the Senator from Oklahoma.

Mr. OWEN. At present these people do not rule; they only think they rule. They are, in fact, ruled by an alliance between special commercial interests, at the head of which is the great political trade combination known as the Protective Tariff League and a great political machine whose name I need not mention in this presence.

Mr. President, the Senator from Oregon has heretofore set up in the clearest possible manner, in his most notable and valuable speech of May the 5th, the system of the people's rule of Oregon. I wish to give it my cordial approval and to say with the adoption of this method the people of the United States can relieve themselves in very great measure, if not entirely, of the sinister influences to which bad government in this country is directly due.

PROGRESS OF SYSTEM.

Mr. President, as one of the steps to the restoration of the people's rule I call to the attention of the Senate Senate joint resolution No. 41, providing for the submission to the States of the Union of a constitutional amendment providing for the election of Senators by direct vote of the people, and move that the Committee on Privileges and Elections be instructed to report the same at the first day of the next session of this Congress, which will give the committee abundant time; and on this motion I call for the yeas and nays.

Mr. BEVERIDGE. I count it a happy circumstance that in his engaging remarks the Senator from Oklahoma [Mr. OWEN] did not reduce this great question of statesmanship to a dogma of partisanship. It is larger than any party. It is as broad as the Republic.

I regretted that into the flow of the Senator's remarks some little partisanship was injected by various Senators as though this question were a Democratic issue or a Republican issue. The State of Indiana passed this resolution in 1907. It was passed by a Republican legislature. I think that of the various States that have passed resolutions, perhaps quite as many that are known as Republican States have been in favor of it as those that are known as Democratic States; so that no party can make this its peculiar issue.

Mr. President, I think that one of the first to suggest this plan since the adoption of the Constitution was one of the greatest of Indiana's statesmen, the man whom Lincoln was fond of calling the deputy President of the United States for the Mississippi Valley—Governor Oliver P. Morton. We are wedded to this doctrine in Indiana.

I was particularly glad that the Senator from Oklahoma did not attempt to make this question a partisan one. It would not have been fortunate from the Democratic point of view had he tried to do so; for, if my recollection is not at fault, when the Senator brought up his resolution before and secured a vote upon it, there were only nine Democratic Senators who voted for it—less than a third of the Democratic membership of this body. On the contrary the majority of Senators who did vote for it were Republican Senators; if I am wrong in my recollection, I hope some Senator will correct me.

I count it an honor to be one of those who voted for it.

We are accustomed to think that the election of Senators by the method finally prescribed in the Constitution was the one most favored by those great statesmen, who wrote our fundamental law. But that is not the historic fact. The plan most favored by the ablest men of the period when the Constitution was written was not even the election of Senators by the States, but by senatorial districts.

As every student knows, it was the constitution of the Senate upon which the constitutional convention nearly went upon the rocks. There was the most determined contention as to how the Senate should be constituted. I believe history shows it to be the fact that the great majority of those whose names are now household words for constructive statesmanship at that formative time were in favor of the election of Senators by senatorial districts instead of by States, and by the people of those senatorial districts instead of by the legislatures of the States. That great plan of plain justice was defeated by the smaller States. For example, Belden, of New Jersey—I think that was his name—in the course of the debate, remarked that if that plan prevailed, New Jersey would withdraw and form an alliance with a foreign power.

I shall not take the time this morning to call attention to all historic details of the original plan and of the plan finally determined upon; but the plan that was adopted ultimately was forced by the insistence of the smaller States, which

wanted an opportunity to be what they called upon an equal footing in this body.

But, Mr. President, even when it was finally declared as the result of this weave and play of contending opinions and conflicting forces that Senators should be elected by the legislatures of the States, nothing was in the contemplation of the Constitution makers that now actually is practiced.

Everybody knows that the theory was that the legislature of the State should look all over the State, bound by no consideration of party, restrained by no obligation of any kind except the duty of selecting the wisest, the bravest, and the purest man for Senator. It was not at that time contemplated that if a legislature belonged to one party by an election or to another party it was bound to select a Senator who belonged to that party.

The party convention system which has so radically changed in its practical operations much of our Constitution did not arise until Andrew Jackson's time.

So, Mr. President, we find that we have actually departed from the intention of the Constitution even as this matter was finally settled; because, even upon that theory, the legislature was supposed to select, regardless of party or other consideration, the ablest man to represent the State.

It has been suggested that the selection of a party's candidate for Senator or governor or whatnot by primaries is a near approach to the election of Senators by a direct vote of the people; but all students who have observed the working of primaries see that that is not the case. On the contrary, the selection of a party's candidate for Senator by primaries is far from being the equivalent of the election of that officer by the direct vote of the people.

I shall not at this moment intrude upon the Senate to point out the details of dissimilarity; but one is sufficient to show the difference. In the selection of Senators or other officers by primaries which sweep throughout an entire State the people will not come out to vote in such numbers as they do at an election, where the whole issue is to be determined, unless they are worked up by a powerful personality or by very attractive issues; and if that proves to be the case, then their energy is exhausted in the primary election, and little is left for the real election.

So the selection of Senators by party primary is not an adequate substitute for the election of Senators by a direct vote of the people. It is better than nothing, perhaps, but the election of Senators by the direct vote of the people is the only right, wise, and complete solution of this great question.

Mr. President, I have always been from the time that I began to give any study to public questions heartily in favor of the election of Senators by the direct vote of the people. It had its origin in the wisest minds that formulated the Constitution, who were overruled only by a compromise forced upon them.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from New Hampshire?

Mr. BEVERIDGE. Certainly; but I am about through.

Mr. GALLINGER. The Senator from Indiana suggests, and I presume correctly, that when the Constitution was adopted the great men who were in that convention had in view the selection of Senators without reference to political or party consideration.

Mr. BEVERIDGE. Yes; under the plan as finally agreed upon.

Mr. GALLINGER. Now, if the Senator's plan of a direct vote by the people should be accepted as sound and desirable, would the Senator be in favor of returning to the idea that the fathers had in view?

Mr. BEVERIDGE. Why, that would secure that very end. The fathers thought of selecting the best man irrespective of party, under the plan finally adopted. The original view which I have stated twice, the view of the great constructive statesmen of the Constitutional Convention, was that Senators should be selected in two ways, first, by senatorial districts instead of by the legislatures, and second, by the people directly. But the smaller States forced the adoption of the plan as we now find it in the Constitution. Under that plan the idea was that the legislature would look over the whole State and elect the best man Senator. The unforeseen development of the political party, as we know it to-day, has changed that design of the Constitution builders.

So, Mr. President, the question of the Senator is unthinkable under our party system that has grown up in the Republic, and the convention system that has developed since Andrew Jackson's time.

Mr. GALLINGER. It is unthinkable from my view point. I was just wondering whether the Senator's mind was running along the same channel as the minds of the great men to whom he alluded, that the States should select their best men irrespective of any consideration except purity of character and ability.

Mr. BEVERIDGE. The Senator did not do me the honor to listen to my remarks. What I said was the plan taken by those who, at that date had had most credit for constructive statesmanship was the selection of Senators by senatorial districts instead of by States, and by the people instead of by the legislature. That plan, I said, was defeated by the smaller States and the present plan adopted, and then after the present plan had been adopted, the theory or the policy, as it was adopted, was that the legislatures should select the best man they could find, regardless of parties, which, as the Senator knows, did not exist in the sense in which they now exist.

Mr. GALLINGER. I did not misunderstand the Senator, and my question was directed to that point.

Mr. BEVERIDGE. The men who favored the first system were very great men.

Mr. GALLINGER. My question was directed to the point whether the Senator would be in favor of returning to that idea. It has crept into American politics, as the Senator knows, in at least one State, where they ignore party politics in the selection of Senators.

I will ask the Senator one further question. The Senator from Oklahoma—I heard only a portion of his speech, which was interesting—suggested the propriety of electing judges by the people, a plan which prevails in certain States.

Mr. BEVERIDGE. I am not speaking upon that question. I did not even hear what the Senator from Oklahoma said on that subject.

Mr. GALLINGER. There is one other question. If the Senator would favor that idea, where are we going to stop?

Mr. BEVERIDGE. Pardon me, the Senator from Oklahoma hung about the central proposition, the election of Senators by a direct vote of the people, great clusters of minor questions, and I do not propose to answer as to each one of those questions. They were many. They were more or less important. To discuss all of them would take an entire session.

Mr. GALLINGER. I will not press the question on the Senator from Indiana. I have wondered whether when we get to the point of electing our judges in the States by popular vote——

Mr. BEVERIDGE. I said not a word about the election of judges.

Mr. GALLINGER. And the election of Senators by popular vote, we would also elect the Supreme Court judges by popular vote. Why not?

Mr. BEVERIDGE. The theory of the Constitution was that the President should be elected by the college of electors, that they should sweep the whole Republic and choose the best and bravest men for that office. The development of the party system has nullified that phase of the Constitution, so that although in theory the college of electors has the right to choose whom it pleases, nevertheless they are morally and almost physically bound to vote for the man who heads the ticket. It might be an interesting subject, when we are not so much pressed for time, to go into the various modifications of the Constitution and the curious development of the party system.

Mr. HEYBURN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Idaho?

Mr. BEVERIDGE. Certainly, I yield.

Mr. HEYBURN. I was going to ask the Senator if he thought a country of this size could possibly make a constitution in any length of time whatever?

Mr. BEVERIDGE. That is a question which I do not understand to be applicable; but why not?

Mr. HEYBURN. The question of a constitutional convention was presented by the Senator from Oklahoma.

Mr. BEVERIDGE. I am not so weak in my faith in the intelligence and patriotism of the people of the Nation as to think they can not draft a constitution. Of course they can.

I conclude, Mr. President, merely by saying that this is not a party question. The fact that the Republican legislature of Indiana passed a resolution does not entitle us to say that it is a Republican issue any more than the fact that the Democratic legislature of another State passed a resolution entitles us to say that it is a Democratic issue. It is an issue of patriotism and not of politics, and it had its roots in the beginnings of our history.

Mr. DIXON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Montana?

Mr. BEVERIDGE. Certainly.

Mr. DIXON. I am glad to hear the Senator from Indiana make the statement that it is not a matter of partisan politics. I was sorry the Senator from Oklahoma put that kind of a flavor on it, for I remember when the vote was taken two years ago on the Senator's amendment I voted with him, and that of the 20 votes cast for the amendment 11 of them were Republican votes and only 9 Democratic votes were cast for it. Nineteen Democratic Senators are recorded as not voting and only 9 out of the entire Democratic membership voted with the Senator from Oklahoma on the resolution, while 11 Republican Senators voted for it.

Mr. BEVERIDGE. I said that it would have been unfortunate for the Senator's argument if he had tried to make it a partisan issue, because on the roll call it would be a difficult matter for him to explain it upon that basis.

Mr. OWEN. Mr. President, I only want to occupy the floor for a moment to answer the suggestion that the Senator from Oklahoma had made this a partisan proposition. On the contrary, in the beginning of my remarks I submitted the vote that had taken place in the Senate as it occurred, without commenting on it one way or the other, and I pointed out that every Republican State west of the Hudson River stood for—and had expressed it, directly or indirectly, by resolutions of legislatures or by the actual practice of their people—the primary nominating of Senators. For that reason I do not think that I could be put in the attitude of making it a partisan question, but exactly the contrary. I do not regard it as a partisan question.

Mr. BEVERIDGE. I sincerely trust the Senator from Oklahoma, or some other Senator, will bring up this really great question at some time when all of us do not feel under obligations to exclude everything from discussion except the measure which the Senate is legislating upon, because this matter deserves wider discussion. It should not be forgotten that President Taft has declared for the election of Senators by the direct vote of the people. He said in his letter of acceptance, "With respect to the election of Senators by the direct vote of the people, I am inclined to favor it; but it is hardly a party question." He was right in both of these positions.

PENSIONS AND INCREASE OF PENSIONS.

Mr. SMOOT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 21754) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the civil war, and to widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered—

5, page 6, lines 20 to 23, inclusive.

7, page 8, lines 14 to 17, inclusive.

That the House recede from its disagreement to the amendments of the Senate numbered—

1, page 1, lines 6, 7, and 8.

2, page 5, lines 21 to 24, inclusive.

3, page 6, lines 10, 11, and 12.

4, page 6, line 18, striking out "two."

6, page 7, line 14, after "Battalion," insert "Missouri."

8, page 8, line 24, strike out "twenty-four" and insert "thirty."

9, page 11, lines 22 to 25, inclusive.

And agree to the same.

REED SMOOT,
CHARLES CURTIS,
ROBT. L. TAYLOR,
Managers on the part of the Senate.
H. C. LOUDENSLAGER,
WM. H. DRAPER,
WILLIAM RICHARDSON,
Managers on the part of the House.

The report was agreed to.

Mr. SMOOT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 19403) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the civil war and to widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered—

6, page 5, lines 22 to 25, inclusive.

8, page 7, lines 1 to 4, inclusive.

That the House recede from its disagreement to the amendments of the Senate numbered—

1, page 2, lines 1, 2, and 3, and agrees to the same with an amendment as follows: "The name of Walter S. Hall, alias Walter McLaughlin, late of Company D, Twelfth Regiment United States Volunteer Infantry, war with Spain, and pay him a pension at the rate of twelve dollars per month."

2, page 4, lines 7 to 9, inclusive.

3, page 4, line 20.

4, page 4, line 23.

5, page 4, line 26.

7, page 6, lines 10, 11, and 12.

9, page 7, lines 13, 14, and 15.

And agree to the same.

REED SMOOT,
CHARLES CURTIS,
ROBT. L. TAYLOR,
Managers on the part of the Senate.
H. C. LOUDENSLAGER,
WM. H. DRAPER,
WILLIAM RICHARDSON,
Managers on the part of the House.

The report was agreed to.

Mr. SMOOT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 20490) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the civil war and to widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 4, page 4, lines 9 to 11, inclusive.

That the House recede from its disagreement to the amendments of the Senate numbered—

1, page 2, lines 5 to 8, inclusive.

2, page 2, lines 23 and 24, and page 3, lines 1 and 2.

3, page 4, lines 1 to 4, inclusive.

5, page 4, lines 12 to 17, inclusive.

6, page 5, lines 20 to 23, inclusive.

And agree to the same.

REED SMOOT,
CHARLES CURTIS,
ROBT. L. TAYLOR,
Managers on the part of the Senate.
H. C. LOUDENSLAGER,
WM. H. DRAPER,
WILLIAM RICHARDSON,
Managers on the part of the House.

The report was agreed to.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by M. C. Latta, one of his secretaries, announced that the President had approved and signed the following acts and joint resolution:

On May 21, 1910:

S. 7916. An act authorizing the construction of a bridge across the Columbia River near the mouth of the San Poil River, in the counties of Ferry and Lincoln, Wash.; and

S. 7763. An act to authorize the Pensacola and Southwestern Railroad Company, a corporation existing under the laws of the State of Alabama, to construct a bridge over and across Perdido Bay from Cummings Point, Escambia County, Fla., to Lillian, Baldwin County, Ala.

On May 23, 1910:

S. 7994. An act to repeal section 4035 of the Revised Statutes, providing for the issuance of money-order notices, and for other purposes; and

S. 7995. An act to amend section 3928 of the Revised Statutes to provide for receipts for registered mail, and for other purposes.

On May 27, 1910:

S. 2341. An act to authorize the sale and disposition of the surplus and unallotted lands in Bennett County, in the Pine Ridge Indian Reservation, in the State of South Dakota, and making appropriation to carry the same into effect; and

S. 3360. An act to amend an act entitled "An act to provide a government for the Territory of Hawaii," approved April 30, 1900.

On May 30, 1910:

S. 183. An act to authorize the sale and disposition of a portion of the surplus and unallotted lands in Mellette and Washabaugh counties, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect.

On May 19, 1910:

S. J. Res. 97. Joint resolution authorizing the construction and maintenance of wharves, piers, and other structures in Lake Michigan, adjoining certain lands in Lake County, Ind.

COURT OF COMMERCE, ETC.

Mr. ELKINS. Regular order!

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 6737) to create a court of commerce and to amend the act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes.

Mr. OWEN. Mr. President, I submitted a motion.

The PRESIDING OFFICER. The Senator's motion was not in order at that time.

Mr. OWEN. I understood that the regular order had been yielded to me for the purpose of bringing up the matter.

The PRESIDING OFFICER. The Chair did not so understand.

Mr. BROWN. The regular order is the unfinished business, and the pending question is on my amendment to the bill.

The PRESIDING OFFICER. The Chair so understands. The pending question is on the amendment offered by the Senator from Nebraska [Mr. BROWN].

Mr. BROWN. On that amendment I ask for the yeas and nays.

Mr. BURTON. Mr. President, I desire to be heard on the amendment.

Mr. BEVERIDGE. Let the amendment be read.

Mr. GALLINGER. Let it be read.

The PRESIDING OFFICER. The amendment will be read.

Mr. OWEN. I should like to have it clearly understood whether or not the regular order was set aside for the purpose of permitting me to bring up the matter which has been before the Senate.

The PRESIDING OFFICER. The Chair understands that the regular order was not set aside, but that the Senator from Oklahoma was recognized.

Mr. GALLINGER. The Senator from Oklahoma, under our system of no rules in this body, had a right to make his speech on this bill or any other bill.

Mr. OWEN. I understand that, but I supposed that the Senator from West Virginia intended that I should have this other matter disposed of. However, I do not wish to interfere with the progress of the railroad bill, and shall therefore not insist.

Mr. ELKINS. Let the amendment be read.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. It is proposed to add at the end of the bill a new section, as follows:

SEC. —. That no railroad corporation which is a common carrier subject to the act to regulate commerce, approved February 4, 1887, as amended, shall hereafter acquire, directly or indirectly, any interest of whatsoever kind in the capital stock, or purchase or lease the railroad, of any railroad corporation owning or operating a line of railroad which is competitive with that of such first-named corporation respecting business to which said act to regulate commerce, as amended, applies; and any corporation which acquires any interest in capital stock, or which purchases or leases a railroad contrary to this section, or which holds or retains any interest in capital stock or in a railroad hereafter acquired in violation of this section, shall be fined $5,000 for each day or part of day during which it holds or retains such interest unlawfully acquired.

Mr. BURTON. Mr. President, the manifest object of this amendment is to maintain competition between different railway lines and systems. Undoubtedly the adoption of the amendment would please a great many people, but I am so thoroughly satisfied its adoption would work injury rather than benefit that I am unwilling to see a vote taken without expressing briefly my views upon the subject.

Competition is futile as applied to railroads and quasi-public corporations and contrary to sound economic and business principles. Competition, of course, is the very life of trade in many departments of enterprise. Perhaps it has the most helpful effect in banking and mercantile business, also it may aid the public if it exists in industrial enterprises; and yet the time may come when one particular organization, or allied organizations, will gain such control of certain branches of industry that regulation rather than the maintenance of competition will confer the greatest good upon the greatest number.

What is competition? What is the result of it? Under its influence one person obtains that which he desires, such as articles of commerce, facilities which are useful, at a less price than another. The tendency is to compel the producer to charge lower prices, yet by statutes relating to railways we prohibit, and very justly, lower charges for one shipper than for another. What we are seeking to accomplish is that every citizen of the United States shall have an equal right upon the iron rails and that the humblest shipper shall not be discriminated against in favor of the largest.

Competition can not apply with benefit to railways or to any class of quasi-public corporations. In the same list are included gas companies, water companies, telephone and telegraph lines.

I am thoroughly aware that a great many persons think that the establishment of a new and competing telephone line confers a benefit upon a community. It does nothing of the kind. It necessitates the duplication of plants, of office force, of those employed in managing the telephone lines, and what in its ultimate effect is more important than anything else, the payment of interest on double capital, thus entailing an additional burden upon the public, and as a general thing resulting in inferior service.

With great pains and with general approval laws have been passed forbiding rebates. No more salutary provision could be incorporated into our laws relating to railways. But the moment you pass a law prohibiting rebates, you incorporate into the statutes of the country a provision against competition. We often overlook the peculiar nature of railway property. A railroad between two places is essentially a monopoly. Its rails are located, its buildings are constructed; this investment can not be abandoned. It must continue to do business, or those who invest in it will fail to receive a return upon their property.

The normal course to pursue is to allow agreements between competing lines and to subject these agreements and all rates made under them to the strictest regulation. These two things—agreement and regulation—should go hand in hand, and they are distinctly antagonistic to competition.

I regret very much that section 7 has been dropped from the bill, because I have the utmost confidence that in the ultimate solution of this question agreements between rival or competing lines will be allowed, but at the same time there will be the greatest strictness in government regulation for the purpose of securing fairness and equality to all.

I remember an illustration in my own State and locality of the idea that competition benefits the public. Twenty-nine years ago a line was projected from Buffalo to Chicago, familiarly known as the "Nickel Plate," or the New York, Chicago and St. Louis. For much of the way you could flip a copper from that road to the Lake Shore and Michigan Southern, which ran parallel to it.

The promoters of the Nickel Plate made the most roseate promises of the benefits that would accrue to the public by reason of competition. Those who desired to secure the right of way made that argument to the farmers along the line. "You are now in the grasp of a monopoly. Sell us the right of way at a low price, encourage the building of a competing line, and the greatest benefits will accrue to you." That argument was often accepted by those who owned the property through which the road passed; but it would be very interesting if that right-of-way man should go out among those farmers to-day and use that same argument. Almost immediately the competing line fell under the control of the older railway. Whatever good it accomplished along most of the route which it traversed could have been secured far more cheaply and far better by the addition of a third, and if necessary, a fourth track to the existing line. Now, there is harmony between them, one line taking for the most part one class of traffic, and the other line another class, but with the double burden on the investing public created by the building of an independent line.

It is true there has been sharp competition between different lines, but the results have been temporary in their nature. Rate wars have disarranged business, they have destroyed accurate commercial calculations, and generally the low rates which result inure to the benefit of but a few shippers, and those the strong rather than the weak.

Mr. BROWN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Nebraska?

Mr. BURTON. Certainly.

Mr. BROWN. Does the Senator from Ohio take the position that there should be no competition between common carriers?

Mr. BURTON. I do not. There is an inevitable competition in facilities and in the degree of convenience offered to the public.

Mr. BROWN. That is competition in service. Does the Senator take the position that the competition between common carriers should relate to the service alone and not to the charges and fares?

Mr. BURTON. I do maintain that there is no permanent lowering of rates secured by competition.

Mr. BROWN. Permit me to suggest that on that ground alone can opposition be based to this amendment. If we are to assist the destruction of competition among common carriers, then this amendment should be defeated; but if we want to maintain what little competition we now have, the amendment should be sustained.

Mr. BURTON. I am obliged to the Senator from Nebraska for asking the question. Nothing can entirely eliminate an element of competition. The personnel of different lines, the ambition of each to obtain traffic, to afford facilities to the public, will lead to a measure of competition, but when you argue that by competing lines you ultimately lower the rates, you are indulging in a fallacy and a delusion.

Mr. BEVERIDGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Indiana?

Mr. BURTON. Certainly.

Mr. BEVERIDGE. I wish to ask a question for information, to make clear to my own mind a remark of the Senator's which engaged my attention. The Senator said that when the second line in the example he gave was completed the people found that they had to pay rates upon the double burden that was upon the investing public. That is a new statement, and it seems to me to be a powerful one, that whereas before the second line was built the rates charged were upon a certain amount of investment, when the second or immediately competing line was built then necessarily the charges were upon the investment to build both. That is a new and important argument.

Mr. BURTON. To answer that question with accuracy it should be said that the added expense is diffused over the whole railway system, but to an exceptional extent the specific locality suffers, because the older lines must bear a larger share of the burden imposed by the construction of a newer and alleged competing line.

Mr. BEVERIDGE. Upon the same lines has the Senator investigated what the facts are when two telephone systems in a given city take the place of one, whether on the whole the rates are reduced by reason of the two telephone systems existing or whether the practical result is the increase of rates?

Mr. BURTON. Not with the greatest thoroughness. So far as I have investigated, I will say that the tendency was to high rates. There is a principle behind all this.

Mr. BROWN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Nebraska?

Mr. BURTON. If the Senator from Nebraska will yield a moment, I do not see how it can be otherwise. There is involved the principle that a certain amount of capital invested must yield a certain return. Some people say that if capital is destroyed nevertheless you obtain the benefit of the competition. But what is the result of such destruction? Capital will not be invested in that branch of enterprise. The public will have poorer facilities. As one of our writers has said, "Invested capital never dies; it is never destroyed." If there is an amount which is apparently wasted in any particular business, its effect is felt in less investment in that business. The standard of development is hampered.

I shall be glad now to yield to the Senator from New Hampshire [Mr. GALLINGER], though I believe the Senator from Nebraska [Mr. BROWN] first sought recognition.

Mr. GALLINGER. Just a word, Mr. President, in answer to the query as to whether rates are increased or decreased by competing telephone companies. The fact is that nine times out of ten in this country the independent telephone companies have rapidly been absorbed by the existing companies. I think that would tend to increase the rates just as a few years ago in this city we permitted a second electric-light company to be installed, but a very little time elapsed before it was absorbed by the existing company, and the gentleman who installed the second company has been traveling in foreign lands ever since on the profits he made out of his investment.

Mr. BURTON. I know of some instances in which independence is still maintained and in which they have raised their rates.

Mr. GALLINGER. Yes; there are some such cases.

Mr. BROWN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Nebraska?

Mr. BURTON. I yield to the Senator from Nebraska.

Mr. BROWN. Mr. President, the Senator from New Hampshire [Mr. GALLINGER] presents a complete answer to the argument of the Senator from Ohio [Mr. BURTON] in his illustration of telephones. His assertion is that where a telephone system is put in additional to the one existing, finally the one absorbs the other.

Mr. GALLINGER. Usually.

Mr. BROWN. Usually; and, therefore, competition is destroyed. I concede that; but this amendment goes to the proposition that stops the absorption. It prevents the common carrier competing with another from buying the stock of the other, which is absorption. If this amendment carries, there will not be any more railroad absorption.

Mr. BURTON. But does the Senator from Nebraska believe for a minute that the unnecessary capital invested in wasted lines will be allowed to go without any return?

Mr. BROWN. No, indeed. I think that every capitalist and all capital that is invested ought to have returns. My proposition is that interstate common carriers, organized for the purpose of transporting goods between the States, are in the business of carrying or transporting goods over their own line and not over the lines of competitors. Their business should be confined to their own lines; their control of the carrying business should be limited by their own line.

This amendment simply seeks to deprive the common carrier from controlling competing lines. It does not go to the fact of a return on the capital invested at all.

Mr. BURTON. The amendment is but the development of a general idea that competition between what may be called rival railway lines is of benefit. Against that idea I enter my most vigorous opposition, because it is not true. It does not do any good in the long run.

Mr. DOLLIVER. Will the Senator permit an interruption?

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. BURTON. I do.

Mr. DOLLIVER. Mr. President, it has always appeared to me that there is another element in this problem. Even if it were conceded that competition between rival railway lines for practical purposes is impossible, still the method of throttling it——

Mr. BURTON. The method of what, may I ask the Senator from Iowa?

Mr. DOLLIVER. The method of putting an end to competition may involve public burdens so serious as to make the absorption against public policy. If I am correctly informed, these purchases of the stock of competing lines are effected by increasing either the bond issue or the stock issue of the purchasing carrier; and when they take the proceeds of these new capital issues to buy the stock of competing lines they leave the public in the position of paying dividends and interest on the capital of the line controlled and upon a very great addition to the capital of the line seeking control. Thereupon, in my judgment, a very great public injury arises, so great that even at present we are able to see the working out of it in the existing higher railway charges to maintain the integrity of the stock and bond issues that have grown up in the last few years in addition to any legitimate investment in railroad mileage or other facilities burdening the community in a way, for which it receives no return whatsoever.

Mr. BURTON. Mr. President, I shall have no quarrel with the Senator from Iowa—I probably should not have any quarrel with him in any event—in his contention that the issue of stocks and bonds should be limited. I regard the omission of those sections of the bill as most unfortunate. Although there may be some question as to constitutionality, if a valid provision can be adopted by Congress giving to the Interstate Commerce Commission the right to supervise the issuance of securities, I am satisfied it would be most helpful to the whole country. In fact, I go even further. I think the issuance of fictitious or watered securities lies at the very root of the evils which now exist in railway rates. When a line is merely projected there may be doubt whether the Federal Government, through any of its agencies, has a right to control its stock and bond issues; but it seems to me that when a line or lines are in operation there would be no question of that right, because it is so intimately interwoven with the whole question of rates, and consequently a question of interstate commerce. Everyone knows that after bonds and stocks have been sold and are held by innocent holders any court would hesitate to lower rates below a

figure which would pay a return on those stocks and bonds. But I do not see how the suggestion of the Senator from Iowa [Mr. DOLLIVER] in any way militates against the contention that competition between rival railway lines is futile. The issuance of stocks and bonds is a mere incident, an incident which could be corrected and should be corrected by proper regulation.

Mr. DOLLIVER. But, Mr. President, I had not reference to the issue of fictitious stocks and bonds particularly, but to that kind of stock and bond issue which is the basis of this purchase of control in other railroads. The amendment of the Senator from Nebraska prevents a railroad from buying the stock of competing lines. While it may be a good answer to that to say that competition is neither possible nor desirable, it may certainly be replied that the purchase of stock in competing lines for the purpose of gaining control of rival carriers ought to be stopped, because in operation it increases the liabilities of the purchasing corporation without making any tangible addition to their assets.

Mr. BURTON. Mr. President, I can not agree with the Senator from Iowa in that proposition. If the money is judiciously expended for the purchase of stocks and bonds, the purchasing railway company has an asset just as valuable and just as profitable as it would gain by building a double track or a third or fourth track. It is only in the abuse of the privilege, rather than the use of it, that harm can be done.

Mr. DOLLIVER. It is true——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. BURTON. Certainly.

Mr. DOLLIVER. It is true that the purchasing railroad company has an asset, but what asset has the public? The public is in the position of paying dividends on this stock which has been purchased, and it is put by that process in the position of paying dividends upon the issue of stocks by the purchasing carrier for the purpose of raising the money to buy this control. Thereby the aggregate stock, for which the public stands to pay dividends, has been increased with no additional railway facilities either in mileage or otherwise given to the public in exchange for its money.

Mr. BURTON. I can hardly agree with the Senator from Iowa in that contention, unless there is an inflation, which should be forbidden by law. Suppose there is one railway property valued at $10,000,000 and having $10,000,000 of securities, and another beside it valued at $5,000,000 and having $5,000,000 of securities; suppose the larger railway, with $10,000,000 of securities, in absorbing the smaller adds to its liabilities the $5,000,000 of the other, making $15,000,000 in all; the public are no worse off than they were before, when they had to pay separately interest on $10,000,000 and $5,000,000. Now they have to pay interest on $15,000,000 under one ownership.

Of course, I will say to the Senator from Iowa and to the Senator from Nebraska, my contention is against the idea that competition does any good, and I regard this amendment as a development or expression of the idea that competition is of vital importance.

Mr. BROWN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Nebraska?

Mr. BURTON. Certainly.

Mr. BROWN In the Senator's judgment, what is the purpose of a railroad company buying the stock of its rival company?

Mr. BURTON. No doubt one object is the elimination of the inconveniences and disadvantages which arise from competition. That is the main object.

Mr. BROWN. In other words, it is for the purpose of assisting competition to depart; it is to destroy competition. Is not that the truth?

Mr. BURTON. I would concede that the usual object is to do away with competition. Another is to diminish the proportion of expense to receipts.

Mr. BROWN. And the reason the Senator from Ohio, therefore, opposed the amendment is that he opposes competition?

Mr. BURTON. I do not believe in competition between railroads; I believe in regulation—strict regulation. I believe that competition leads to waste in the long run and injury to the country.

Mr. BROWN. Does the Senator from Ohio think it is easier to regulate the common carriers when they are all owned by one man than it is to maintain competition and regulate them?

Mr. BURTON. That is hardly a supposable case. I think it would be quite as easy to regulate railway lines whether they are in systems or whether they are owned by a multitude.

One other disadvantage in present-day attempts to maintain competition is the effort to control railways under two separate sets of laws—one the Sherman antitrust law and the other the interstate-commerce law. One or the other should be sufficient for controlling the whole proposition. President Roosevelt in several messages very courageously and, as I think, very wisely, advocated exemption of railway agreements from the antitrust law of 1890.

As regards systems, the question of the Senator from Nebraska suggests to me that in two of the more advanced countries where private ownership prevails, after a great deal of confusion and useless competition, each system of railway has its own field to itself. In France there are seven systems, each occupying a certain area free from rail competition by other lines. In England, while competition is apparently more active, there are six systems. After a longer trial than we have made in this country, after a less disastrous effect from railway wars and waste of capital, they have come to the conclusion that a practical—yes, you may say almost an absolute—monopoly in a certain field under the regulation of the Government is best.

I am satisfied, Mr. President, that it is the desire of the Senate to vote on this question, and I will not detain you by any extended remarks. I do, however, wish to call attention to a debate so long ago as 1844 in the English House of Commons, in which Mr. Gladstone took part. This statesman, so very prominent in England, was first of all a financier. His greatest distinction was earned in the presentation of the budgets which he brought forward as chancellor of the exchequer. He inherited from his father, a merchant, a clear understanding of business and commercial questions. Sixty-six years ago he expressed himself on this subject. It is necessary for me to read some portions not entirely essential to give the substance of all that he said. A bill was pending providing for the building of a new line, in competition with an existing one. I should say here, in passing, that a great share of the evils of competition have arisen from the building of unnecessary new lines. But these are already constructed. Certain States now have railways commissions, where the need of a new line is passed upon before a single spadeful of earth can be dug in its construction. Mr. Gladstone said, on the 5th of February, 1844:

At present, when unemployed capital abounded—

This is in the third person, a different form of reporting from that which is used by us and from that which is now employed in the English Parliament—

At present, when unemployed capital abounded to a degree almost unprecedented, and numerous parties were seeking for some mode of investing it, there could be no doubt that it would take a direction toward the extension of railways. Under these circumstances, it was natural to expect there would be a disposition to make application to Parliament for the establishment of rival and competing lines to those already existing. This circumstance suggested grounds for serious and deliberate consideration. He had had enough experience of railroads to make him feel assured that they must not rely too much on the statements that had been made respecting the advantages of competition between rival lines, or that they could depend on such competition keeping down prices in the same sense and with the assured results they could in other matters; the vastness of the capital required to be invested, and the circumstances that the parties advancing it were limited in number, made arrangements between rival lines easy of accomplishment. It had been urged, and he conceived very justly, that the same effect that competition produced in other cases would not follow as regarded competing lines of railroads; but that if Parliament should be induced to pass bills for such a purpose it would afford facilities to exaction. If this were the case, and he was induced to think that such would prove to be the result, the consequence of allowing competing lines would be, in most instances, an increase of the evil and would turn out to be a mere multiplication of monopoly, for such were the facilities of union between these large railway companies that their apparent competition would lead to results very different from those which wisdom would dictate. Parliament, therefore, should well consider what course they should adopt with regard to lines recommended as competing lines, and which were not called for in consequence of the extent of local traffic. Of course these observations were not intended as applying to local lines recommended by the natural character and condition of the country and by the traffic they were likely to have. Of course he did not allude to such lines as likely to be affected by the evils which might follow from the formation of competing lines, but while Parliament had many strong grounds to avoid the practice of encouraging the construction of competing lines, the existing railway companies had many motives to watch this disposition on the part of owners of capital, and they must perceive that it was far better for their own interests to make such terms with Parliament as would be satisfactory to the general feeling of the public than to expose themselves to the hazard of bona fide competing lines.

He said again at a later time in the same year:

It was said let matters, therefore, be allowed to go on as at present, and let the country trust to the effects of competition. Now, for his part, he would rather give his confidence to Gracchus, when speaking on the subject of sedition, than give his confidence to a railway director, when speaking to the public of the effects of competition. * * * But now he came to the notable quarrel which had subsisted for a time between the London and Birmingham Company on the one hand, and the Grand Junction on the other, and in which those two companies were at deadly odds; and as far as railway companies could be said to be capable of ferocity, they might be described as ferocious. It was said that one result of this quarrel would be the most flourishing prospects for the public; there were to be several new lines of railways. The Chester and Birmingham was to be carried on to Birkenhead, then there was to be one from Shrewsbury to Chester, and thence to Liverpool. For the public advantage all this was to be done. But

the Grand Junction Company was determined to show as much public spirit, and so they projected a line from Stafford to Bedford, completing the line the whole way to London, independently of the London and Birmingham Line. This was the nature of the dispute between the two companies. But these railway companies were singularly philanthropic among themselves. Their quarrels were like lovers' quarrels, and they reminded him of a quotation once felicitously made use of by Mr. Fox:

"Breves inimicitiæ; amicitiæ sempiternæ."

(Quarrels are brief; friendships everlasting.)

The two companies met together and made up their quarrel.

Mr. President, I think the people are slow to awake to the effects of competition between railway companies. If we consider the history of railroad wars, we see that the one reason which has been behind this absorption of competing lines—oftentimes accomplished, as the Senator from Iowa suggests, by the issuance of securities and by the watering of stocks—has been unwise competition.

I am unable to give my vote for this amendment, because I think it looks in the wrong direction. I am aware that I am running counter to the general current of popular sentiment on the subject, but I am perfectly willing to leave to the future consideration of this problem whether competition is a benefit or not; and I am satisfied that, instead of proving a benefit, it will be an injury not merely to the railroad companies, but to the public at large.

The VICE-PRESIDENT. The question is on the amendment offered by the Senator from Nebraska.

Mr. BROWN. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BAILEY. Mr. President, I do not agree with the Senator from Ohio that competition among the railroads is undesirable. I do, however, fully agree that when any government enters upon the regulation of the railroad rates it abandons, pro tanto at least, the theory of competition, but only as to rates; and there are an infinite number and variety of matters still left for the railroads to consider when they come to serve the public. The safety, the convenience, and the dispatch with which they deliver property and passengers are all matters entering to be considered by the patrons of every railroad, even when the rate is the same, and has been fixed by the Government. If the Government of the United States had entered upon the policy of an absolute rate—to which I think it must finally come—and if every rate, both for fares and freights, had been definitely and absolutely fixed by the law or by a commission, so that there was absolutely no competition among the railroads in that respect, I would still not be willing to witness a combination that eliminates that competition arising out of the safety and the convenience and the dispatch of the service, coupled with the politeness of those who are operating the railroads.

Mr. BURTON. Mr. President, will the Senator from Texas yield to me for a question?

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Ohio?

Mr. BAILEY. Certainly.

Mr. BURTON. I fully recognize the desirability of having the convenience of the public subserved and that there should be accommodation, care, and dispatch; but is it not true that the ambition of the managers, even if they are under the same general ownership, will bring about that result?

Mr. BAILEY. Not always.

Mr. BURTON. I will say to the Senator from Texas that the two lines I have mentioned as an illustration—which are under the same ownership, I suppose, although, perhaps, no one knows exactly as to that—at times display marked competition with reference to the handling and dispatch of freight and the making of excursion rates and such would be a natural result, it seems to me, of the energy and desire for business of those in immediate control, even though the roads were under the same management and the established rates were the same on the two. It is impossible to maintain an absolute sameness of methods and policy on two or more distinct railway systems.

Mr. BAILEY. Mr. President, I do not think the ambition of a manager is ever permitted to interfere with the dividends. I think the manager of one line, which was owned by a competing line, who undertook to provide a service at an undue expense would be more apt to find himself displaced than to find himself promoted. If three lines were serving the passengers who traveled, and the freight which was carried between Washington and St. Louis and all were owned by one company, I have a very definite idea that the tendency would be to practice economy in their operation, and that two of those lines, at least, would not be permitted always to strive to excel the other.

But while I feel compelled to dissent from the view expressed by the Senator from Ohio, I want to suggest to the Senator from Nebraska this difficulty about his amendment: We all agree that the power of Congress over this subject arises out of its power to regulate interstate and foreign commerce. It is neither more nor less than that. If therefore the ownership of stock in a competing company is an obstruction of interstate and foreign commerce, it is now condemned by what is commonly called the antitrust act, as construed—and, as I think, properly construed—in the Northern Securities case. On the other hand, if this ownership of stock does not amount to an obstruction of interstate and foreign commerce and is therefore not within the condemnation of the present antitrust law, then it is beyond the power of the Federal Government to forbid it.

I think that, if the Senator from Nebraska will examine the Northern Securities case, he will find that both the majority and minority of that court agreed that Congress has no power to regulate the mere purchase and sale or ownership of railway stocks or bonds, the majority of the court holding, however—and, as I think, properly holding—that whenever the ownership of such stocks and bonds is utilized to suppress competition, and thus unduly to burden and obstruct the flow of interstate and foreign commerce, it is condemned by the antitrust act and is within the power of the Federal Government. I suggest to the Senator from Nebraska that if he could have his amendment adopted he would be face to face with that proposition.

So far as I am concerned, and as I have already stated on the floor of the Senate, I am firm in the belief that under the law to-day no railroad corporation, chartered and authorized to construct and operate a line between given points, has any power to apply its corporate funds to the construction, maintenance, and operation of a different line. My own opinion is that under the common law such a proceeding is a diversion of corporate funds which any stockholder in a proper proceeding could enjoin.

Neither have I any doubt——

Mr. BROWN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Nebraska?

Mr. BAILEY. I yield.

Mr. BROWN. Do I understand the Senator from Texas to take the position that already under existing law it is unlawful for one company to purchase stock in another?

Mr. BAILEY. Unlawful in the sense that it is ultra vires.

Mr. BROWN. Unlawful in the sense——

Mr. BAILEY. Not unlawful in the sense that it is a crime.

Mr. BROWN. But unlawful in the sense that it can be prevented.

Mr. BAILEY. That it can be prevented by a stockholder.

Mr. BROWN. That is a wise law, is it not?

Mr. BAILEY. I think it is.

Mr. BROWN. Then, what is there wrong about making it an offense to do that which is already wrong under the law?

Mr. BAILEY. The Senator from Nebraska is too good a lawyer not to understand that there is a vast difference between the right of people who have a joint ownership of property to do a certain thing with it and the right of the Government to control all of them in their disposition of it.

If I am correct about the law, the right to prevent a railroad from acquiring the stock of another railroad is the right of a stockholder to prevent a diversion of the corporate funds, and that right exists in the case of every other corporation as well as in the case of a railroad corporation.

For instance, I employ the illustration familiar to all students of law. A corporation organized to build and operate a tavern plainly could not take the corporate funds and establish a factory, or a corporation authorized to establish a factory for the manufacture of certain garments could not take the corporate funds and establish a shoe factory, although the purpose in each case would be a manufacturing business. But the definite business provided in the charter determines the right of the officers to employ the corporate funds.

I have no doubt in the world that a stockholder of a railroad—perhaps I ought not to state it that strong, Mr. President, because in some instances they have attempted to prevent it and, as I recall, in a few instances their petitions have been denied, though in a majority of instances they have been induced by the offer of an exorbitant price for their stock to abandon their proceedings.

One thing that has made those proceedings so infrequent in this day is that it has become a common practice with a certain class of lawyers and clients to blackmail these institutions by bringing these suits for the very purpose of inducing their projectors and promoters to buy peace. You may be sure that these promoters and projectors buy their peace only because they fear the result of a lawsuit. I myself confidently believe that the rule is, and the rule ought to be, that no railroad has

a right to buy the stock of another railroad. I need not, however, repeat what I have said in the Senate on a former occasion about that particular phase of the question.

Neither have I any doubt that the public have an interest in preserving, so far as the public judgment, expressed in the law, looks to competition at all, the absolute freedom of that competition for the public patronage; and therefore I have no doubt that it is a wise policy to prevent, by statutory enactment, one railroad from purchasing the stock of another and competing road.

But, Mr. President, we have a system of government that does not permit the Federal Government to do everything which it may be desirable to do. It is undoubtedly desirable to prevent murder, theft, and arson, but the Federal Government, except in rare cases, is powerless to pass a law to forbid or punish those crimes. And so it is in this case desirable to prevent a railroad from owning the stock of a competing railroad, but the power of the Federal Government only attaches when that rises to the point where it becomes an obstruction of interstate and foreign commerce. Until it reaches that point, it is a matter for the State and not for the Federal Government. If it reaches the point where it becomes a matter for the Federal Government to deal with, I respectfully submit to the Senator from Nebraska that the law, as it now stands, meets it. And one of the very reasons I was so earnestly opposed to the section of the law about which we had such a long and enlightening controversy was that I did not want to take these railroads from under the operation of the antitrust statute.

Mr. NELSON. Mr. President, I am opposed to the amendment of the Senator from Nebraska, and I will briefly state my objections to it.

First of all, I think I may fairly say that by a sort of tacit understanding, or almost by way of a compromise, it was agreed that section 7 and section 12 should go out of the bill; and the Senate will remember that on the same day, one motion succeeding the other, the two sections, section 7 and section 12, were taken out of the bill.

There is another reason, to my mind, of a still more serious character. If you leave a part of section 12 in the bill, you bring that section into conference. The House of Representatives have passed a bill in which they have utterly eliminated sections 7 and 12, and if we adhere to that programme and policy, and leave sections 7 and 12 out of our substitute, we shall have eliminated it and it will not be a subject of conference. If you take a part of that section, the part the Senator from Nebraska offers in his amendment, and restore it, you bring the whole subject into conference, and there is no telling what the conference may patch up in that matter. They may give us something as bad as the original section 12.

For that reason, in view of what transpired when these two sections were eliminated from the bill, and in view of the fact that I believe there would be danger in putting it back and leaving it open to conference, I am utterly opposed to this amendment. Furthermore, I agree entirely with the Senator from Texas that ample protection in all these cases is afforded by the antitrust law as interpreted by the Supreme Court in the Northern Securities case; and I feel that in view of this arrangement that was made—it may not have been a formal arrangement, but it was analagous to a unanimous-consent arrangement in the Senate, when we agreed to strike out sections 7 and 12—as a matter of good faith we ought to adhere to it and not bring the section back into the bill and make it a subject of conference.

Mr. HEYBURN and Mr. BROWN addressed the Chair.

The VICE-PRESIDENT. The Senator from Idaho.

Mr. HEYBURN. I would yield to the Senator from Nebraska, but what he would doubtless say would comprehend what I will say.

Briefly, I desire to state the reason why I shall not support this amendment. Had we no existing law covering it, I would doubtless support it in some form. But section 3 of the Sherman antitrust law provides a punishment for the offense that is proposed to be created by this act.

Mr. CLAY. Will the Senator let me ask him a question?

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Georgia?

Mr. HEYBURN. Certainly.

Mr. CLAY. Is not the Senator mistaken in regard to that position? Is it not true that under the antitrust law it would be a violation for one road to buy a controlling interest in a road running parallel with it, but could not a road buy 45 per cent or 49 per cent of the stock of a road running parallel with it? And under this amendment, as I understand, it would be illegal to buy any of the stock in a competing line. Is not that the difference between the antitrust law and this amendment?

Mr. HEYBURN. No, Mr. President. I did not discuss it the other day from that standpoint. When this matter was under discussion last Friday I suggested that the act sought to be corrected here would be ultra vires—and an act of that kind is always under the control of the court—and that what we needed here was litigation rather than legislation. And I revert to that idea now.

There is nothing that is proposed to be corrected by this amendment which is not already sufficiently provided for by law. The acts, I will say, complained of, treating this amendment as a complaint, are those referred to in the Sherman antitrust law, and this amendment proposes a punishment for the offense, but the punishment is already provided in section 3 of the Sherman antitrust law.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Indiana?

Mr. HEYBURN. Certainly.

Mr. BEVERIDGE. Does the amendment in any wise weaken the Sherman law in the particular to which the Senator refers?

Mr. HEYBURN. I have not considered it in that light, nor is it, in my judgment, material. We will not duplicate a law merely because it is expressed in other language.

Mr. BROWN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Nebraska?

Mr. HEYBURN. In a moment. The Sherman antitrust law is so well expressed, and having already received the interpretation of the court, it is hardly worth while to attempt a reframing of it merely to change the phraseology. I now yield to the Senator from Nebraska.

Mr. BROWN. I suggest to the Senator from Idaho that this is not an attempt to reframe the language of the Sherman law. I am very certain the Senator from Idaho will search in vain to find anything in the Sherman law that makes it an offense for one railroad company to own stock in another and competing line. Section 3 goes to the offense committed by acts in restraint of trade, and conspiracy in restraint of trade is declaimed and denounced by that law, but nowhere is it made an offense for one common carrier to buy stock in another.

Mr. HEYBURN. That might have been said before the decision in the Northern Securities case, but it can not be said now, because the thing complained of there was the absorption of the stock of one corporation by another.

Mr. BROWN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho further yield to the Senator from Nebraska?

Mr. HEYBURN. Yes; I yield.

Mr. BROWN. That is where my distinguished friend, usually so careful in statement, is utterly mistaken. The judgment in the Northern Securities case holds precisely the opposite. That is, it entirely fails to hold the rule my friend announces. In other words, the judgment there was against a conspiracy in restraint of trade.

Mr. HEYBURN. Yes.

Mr. BROWN. The method of the conspiracy at that time was through a holding company.

Mr. HEYBURN. Yes; but now, Mr. President——

Mr. BROWN. But there was no holding of the court that it was an offense per se for one carrier to buy stock in another.

Mr. HEYBURN. I will have to ask the Senator's indulgence while I finish stating what I was in the midst of stating.

I hold in my hand the decision of the Supreme Court. They refer directly to the provisions of the Sherman antitrust law, so that there is no missing link as to the identity of their reasoning at all. It is by a recitation of the provisions of the Sherman antitrust law that they lay the foundation for the conclusion which they reach; and in that case they held, in fact, that it was not lawful for one railroad corporation or carrying company, directly or indirectly, to control the affairs of another. That is the gist of their holding, and they held it on the ground that it was in violation of the common law; that it was a conspiracy against trade. That was one of the grounds; and they also held it on the ground of ultra vires.

Mr. BROWN. Then, Mr. President, the Senator from Idaho would be in favor of this amendment if the law did not already cover the subject?

Mr. HEYBURN. Yes; had we not already a law which covered it sufficiently, I would cheerfully join with the Senator from Nebraska or another to frame some law or some amendment that would cover this question. But the existing law has been interpreted and applied, and we had better allow it to stand for the sentiment that it expresses because if we attempt

to legislate upon it again the court is bound, in construing our legislation, to assume that we were not dealing with that question, because the courts never assume that a legislative body is doing a useless or a needless thing, and they will be sent afield to find out the purpose of taking up that question upon which there was already a declaration of law, complete and comprehensive, and they would be sent afield to find out what we were trying to do. They would say "it can not be possible that the Congress was trying to legislate along the lines already provided for under the Sherman Act." The result would be a confusion of law rather than to make it plainer.

Now, the language of the Sherman antitrust act, in section 3 is so broad—and the construction placed upon it by the Supreme Court in express terms is as broad or broader than the language of the act itself—that it leaves nothing in doubt. Section 3 says:

Every contract—

The sale of stock is a contract—

combination in form of trust or otherwise—

The amalgamation of the stock of two railroads, ordinarily competitive, would be exactly within that language—

or conspiracy in restraint of trade or commerce—

Now, what purpose would one road have in buying the stock of another railroad if it were not to enable it better to control the commerce represented by the other carrying line? The Supreme Court took exactly that view of it, and when they applied it, they said:

Nor can the act in question be held inapplicable because defendants were not themselves engaged in interstate commerce. The act made no distinction between classes. It provided that "every" contract, combination, or conspiracy in restraint of trade was illegal.

They interpret the Sherman Act, and they interpret it in no uncertain terms, and that stands as the law of the land. Why disturb it or cast upon it an element of uncertainty or anything that leads to the field of uncertainty?

I am in sympathy with legislation that will control or prevent if necessary the ownership by one corporation engaged in the carrying trade of stock in another. I have always regarded it as a basic evil of the difficulties under which the people have sometimes reasonably and sometimes unreasonably complained. Of course it would not be to the benefit of the people of any section of the country that no railroad was to give its substantial backing to the building of any other railroads, because the branches that are sent out as feeders into the newly settled and developing countries are as absolutely necessary to the people as the construction of the original line, and no thoughtful man, I take it, would want to throw any obstacle in the way of a railroad company which originally forms the trunk of the tree sending out its limbs and branches into the new countries. To do so it must issue stock or become the owners of stock in the branches. But it does not follow that they shall become owners of the stock to any extent whatever in another corporation except it be a part of their own system.

As I said the other day, it ought not to be allowed that a railroad owning a line from Chicago to St. Paul should become a controlling factor in a railroad running from Salt Lake to San Diego, because there can be no comity of interest between them at all. It does not follow, however, that the road itself may not extend and that it should not be encouraged to extend its branches, reaching out not only for business for itself, but for the development of the country and the interests of the individuals who are to be served by it.

My first examination of the amendment offered by the Senator from Nebraska inclined me to support it, until I examined it in comparison with the existing law. The principle is all right. I would suggest if it were to be enacted into law the word "competitive" be more clearly defined. It would be no difficult task to more clearly define the word "competitive." It stands alone there, without anything to interpret it, or limit it, or apply it. But inasmuch as I find that under the decision of the Supreme Court, the thing sought to be accomplished by this amendment is an accomplished fact under existing law, I can not give it my support.

Mr. CLAY. Mr. President, as an original proposition I would vote in favor of this amendment, but I recognize that when you restore a fragment of either section 7 or section 12 and send that fragment to the conference committee, the conference committee can report provisions practically restoring section 7 and section 12 of the bill. The House having stricken out sections 7 and 12 and the Senate having stricken out sections 7 and 12, if we leave it in that situation, it is impossible to deal with the questions now dealt with by these two sections.

We struck out section 7, doing away with traffic agreements. We struck out section 12, disallowing the right of merger. Now, in my opinion, if we insert a part of section 12 here and send it to conference, a most dangerous situation will arise. If the conferees are appointed, according to the rules of the Senate, we may naturally expect that the objectionable features, to many of us, of sections 7 and 12 will be restored.

I decline to vote for this amendment solely on the ground that I do not desire to submit to the conference questions that we have disposed of and which have been stricken out of the bill in the interest of the masses of the people of the United States. And solely for this reason I shall vote against the amendment.

Mr. BROWN. Mr. President, I have not been surprised at some of the reasons given for opposing this amendment until I heard the last one. The Senator from Idaho [Mr. HEYBURN], the Senator from Texas [Mr. BAILEY], and other Senators who have spoken against it oppose it on the ground that it is either already covered by the law or for some other reason, but among them all not one has suggested until now that a proposition which is right must be voted down because a conference committee might have jurisdiction to change it. What sort of method is this of making law—that a proposition that men favor they will not vote for because the conference committee is to have jurisdiction afterwards?

I do not care what the conference committee does. Its action is not the law until the Senate, together with the other House, approves it and confirms it. I maintain, Mr. President, that the time ought never to come in any legislative body when a proposition which is right must be voted down because that vote is not the final stage of the enactment of the law.

Mr. CLAY. Mr. President, I have not in the slightest changed my views after hearing the assault of the Senator from Nebraska [Mr. BROWN]. I am willing to compare my record in the Senate on this bill and on every amendment that has been voted upon with that of the Senator from Nebraska. I do not hesitate to say that I would not place in this bill a feature which I approved if I felt sure it would go to conference and result in the adding of other features dangerous to the American people. I do not hesitate to say that after we have disposed of two objectionable features to this measure I am unwilling to insert in it a small provision liable to have attached to it traffic agreements and the right of merger before it is disposed of.

I will not permit, without replying to it, any Senator to question my motives in voting for or against an amendment.

Mr. BROWN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Nebraska?

Mr. CLAY. With pleasure.

Mr. BROWN. Of course the Senator can not twist my language into any such interrogatory as he suggests; not at all. I was simply complaining about the reason; I do not think the reason is valid. I know the Senator is sincere. There is no question about that. The point I make——

Mr. CLAY. Mr. President——

Mr. BROWN. If the Senator will bear with me for a moment——

Mr. CLAY. Certainly.

Mr. BROWN. The point I make is simply this: When a proposition here is to be voted upon and it is conceded to be right, from my standpoint, it seems to me it ought to have an affirmative vote without regard to whether one conference committee or a dozen have jurisdiction over it afterwards, because before it can ever become the law it has to come back to the Senate for confirmation.

Mr. CLAY. Now, in regard to this amendment, section 12 of the bill gave the right to one railroad company running parallel with another and owning 50 per cent of the stock of the other to buy the remainder of the stock. We struck that out of the bill. We contended that it was a violation of the antitrust law.

I am fully aware of the fact that if this bill goes to conference and the merger is put back in the bill, as well as traffic agreements, and that conference report comes back here, we will not be at liberty to amend it. If we were at liberty to strike out that and leave this amendment as it is, then I would not hesitate to vote for it; but when a conference report comes to this body we have to vote either for or against the entire report and have not the right to amend.

Mr. President, having explained myself, I am perfectly willing now to vote on the bill and amendment.

Mr. HUGHES. Mr. President, we spent much time in discussing section 12 of this bill, and if one thing was made clear thereby it was that this section was legislation upon a subject covered by the antitrust law. Everybody knows that the last utterance upon a subject prevails, and this bill will be an amendment, whether it is so expressed or not, of the antitrust act, and, so far as it affects the subject at all, will be a repeal of that act. The Sherman antitrust law, as construed by the Supreme

Court, absolutely prevents everything which it is contended by the Senator from Nebraska he desires to reach by his amendment, and applies not merely to railroad companies, but to all kinds of corporations, while this amendment is limited to railroads, a limitation which we thoroughly analyzed and exposed in the early discussion of this measure.

It is an unnecessary amendment if the purpose is only to secure such action as is outlined by the Senator from Nebraska. If the purpose is the real purpose of the original bill, to permit that to be done which can not now be done, and to that extent to modify the antitrust law, it ought to be said that such is its purpose. But whether it be for the one purpose or the other, it is in violation of the virtually unanimous vote and the apparently unanimous understanding by which and under which section 12 was excluded altogether from the bill. It is excluded now from the bill and is excluded from the bill as sent here by the House. If we do nothing, we shall leave the antitrust law in full force, so far as this bill is concerned. If we modify it and limit its operation to railroads, as this amendment provides, and do not touch the holding companies and other corporations, which may do the thing which is now proscribed, we thus far repeal it, and in addition to this result we drive a peg upon which may be hung in the form that may be formulated in conference all to which we are opposed.

Mr. President, because it is unnecessary if the purpose be to prevent consolidation and obstruction of competition, because it will necessarily impinge upon and to some extent repeal the antitrust law, and because it gives an opportunity now virtually excluded from this legislation to do the things which were intended by the original bill, I think the amendment ought to be rejected and that we should stand where we stood by the unanimous vote of the Senate on the 3d day of May.

For these reasons I am opposed to the amendment as now proposed and in any form in which it might probably be presented.

The VICE-PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Nebraska, on which the yeas and nays have been ordered.

The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. CLAY (when his name was called). I again announce my pair with the junior Senator from New York [Mr. ROOT].

Mr. PAGE (when Mr. DILLINGHAM'S name was called). I wish to announce the necessary absence of my colleague [Mr. DILLINGHAM], and the fact that he is paired with the senior Senator from South Carolina [Mr. TILLMAN].

Mr. FLINT (when his name was called). I am paired with the senior Senator from Texas [Mr. CULBERSON]. He being absent, I will withhold my vote. If he were present, I should vote "nay."

Mr. FOSTER (when his name was called). I have a general pair with the senior Senator from North Dakota [Mr. MCCUMBER]. He is unavoidably absent on account of sickness. If I were at liberty to vote, I would vote "nay."

Mr. CRAWFORD (when Mr. GAMBLE'S name was called). My colleague [Mr. GAMBLE] is unavoidably absent.

Mr. JOHNSTON (when his name was called). I am paired with the Senator from Michigan [Mr. SMITH].

Mr. NEWLANDS (when his name was called). I am paired for the day with the senior Senator from New York [Mr. DEPEW].

Mr. OWEN (when his name was called. I am paired with the Senator from Pennsylvania [Mr. PENROSE]. If he were present, I would vote "yea."

Mr. PERCY (when his name was called). I am paired with the junior Senator from Kentucky [Mr. BRADLEY].

Mr. RAYNER (when his name was called). I am paired with the junior Senator from Delaware [Mr. RICHARDSON]. I transfer that pair to the senior Senator from Virginia [Mr. DANIEL] and vote "yea."

Mr. DU PONT (when Mr. RICHARDSON'S name was called). My colleague [Mr. RICHARDSON] is necessarily absent, and is paired, as has just been stated by the Senator from Maryland. If my colleague were present, he would vote "nay."

Mr. SCOTT (when his name was called). I have a general pair with the senior Senator from Florida [Mr. TALIAFERRO], but as I notice that this is not a party question I will take the liberty of voting. I vote "nay."

The roll call was concluded.

Mr. FLINT. I am paired with the senior Senator from Texas [Mr. CULBERSON]. I transfer that pair to the senior Senator from Maine [Mr. HALE] and vote "nay."

Mr. BROWN. My colleague [Mr. BURKETT] is necessarily absent. If he were present, he would vote "yea."

Mr. CHAMBERLAIN (after having voted in the affirmative). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER], who is absent. I transfer my pair to the junior Senator from South Carolina [Mr. SMITH] and will let my vote stand.

Mr. JOHNSTON. I wish to announce some pairs in this instance, and I will not repeat them during the day.

The senior Senator from Arkansas [Mr. CLARKE] with the senior Senator from Rhode Island [Mr. ALDRICH].

The senior Senator from Texas [Mr. CULBERSON] with the junior Senator from California [Mr. FLINT].

The senior Senator from South Carolina [Mr. TILLMAN] with the senior Senator from Vermont [Mr. DILLINGHAM].

The result was announced—yeas 20, nays 41, as follows:

YEAS—20.

Borah	Clapp	Gore	Overman
Bourne	Crawford	Jones	Purcell
Bristow	Cummins	La Follette	Rayner
Brown	Dixon	Martin	Shively
Chamberlain	Dolliver	Money	Simmons

NAYS—41.

Bacon	Cullom	Hughes	Smoot
Bailey	Curtis	Kean	Stephenson
Brandegee	du Pont	Lodge	Stone
Briggs	Elkins	Nelson	Sutherland
Bulkeley	Fletcher	Nixon	Taylor
Burnham	Flint	Page	Warner
Burrows	Frazier	Paynter	Warren
Burton	Frye	Perkins	Wetmore
Carter	Gallinger	Piles	
Clark, Wyo.	Guggenheim	Scott	
Crane	Heyburn	Smith, Md.	

NOT VOTING—31.

Aldrich	Daniel	Johnston	Percy
Bankhead	Davis	Lorimer	Richardson
Beveridge	Depew	McCumber	Root
Bradley	Dick	McEnery	Smith, Mich.
Burkett	Dillingham	Newlands	Smith, S. C.
Clarke, Ark.	Foster	Oliver	Taliaferro
Clay	Gamble	Owen	Tillman
Culberson	Hale	Penrose	

So Mr. BROWN'S amendment was rejected.

CLAIMS OF OMAHA INDIANS.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4179) authorizing the Omaha tribe of Indians to submit claims to the Court of Claims, further insisting upon its amendments disagreed to by the Senate, and requesting a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BROWN. I move that the Senate further insist upon its amendments and agree to the further conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice-President appointed Mr. BROWN, Mr. SUTHERLAND, and Mr. PURCELL the managers at the further conference on the part of the Senate.

LAND PATENTS IN ALASKA.

Mr. HEYBURN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 621) to amend sections 2325 and 2326 of the Revised Statutes of the United States, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: That the Senate recede from its disagreement to the amendment of the House striking out all after the enacting clause and inserting the following:

"That in the District of Alaska adverse claims authorized and provided for in sections twenty-three hundred and twenty-five and twenty-three hundred and twenty-six, United States Revised Statutes, may be filed at any time during the sixty days' period of publication or within six months thereafter, and the adverse suits authorized and provided for in section twenty-three hundred and twenty-six, United States Revised Statutes, may be instituted at any time within sixty days after the filing of said claims in the local land office."

Amend the title so as to read:

"An act extending the time in which to file adverse claims and institute adverse suits against mineral entries in the District of Alaska," and agree to the same as follows:

"That in the District of Alaska adverse claims authorized and provided for in sections twenty-three hundred and twenty-five and twenty-three hundred and twenty-six, United States Revised Statutes, may be filed at any time during the sixty-days' period of publication or within eight months thereafter, and the adverse suits authorized and provided for in section

twenty-three hundred and twenty-six, United States Revised Statutes, may be instituted at any time within sixty days after the filing of said claims in the local land office."

Amend the title so as to read:

"An act extending the time in which to file adverse claims and institute adverse suits against mineral entries in the District of Alaska."

W. B. HEYBURN,
GEO. E. CHAMBERLAIN,
C. D. CLARK,
Managers on the part of the Senate.
F. W. MONDELL,
A. J. VOLSTEAD,
JOS. T. ROBINSON,
Managers on the part of the House.

The report was agreed to.

PENSIONS AND INCREASE OF PENSIONS.

Mr. SMOOT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5573) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and wars other than the civil war and to certain widows of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House on page 2, striking out line 10 down to and including line 21, and agree to the same.

REED SMOOT,
CHARLES CURTIS,
ROBT. L. TAYLOR,
Managers on the part of the Senate.
H. C. LOUDENSLAGER,
WM. H. DRAPER,
WILLIAM RICHARDSON,
Managers on the part of the House.

The report was agreed to.

Mr. SMOOT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 6272) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and wars other than the civil war and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agred to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment on page 3, line 7.

That the Senate recede from its disagreement to the amendments of the House on page 2, lines 20 to 25, inclusive, and agree to the same.

REED SMOOT,
CHARLES CURTIS,
ROBT. L. TAYLOR,
Managers on the part of the Senate.
H. C. LOUDENSLAGER,
WM. H. DRAPER,
WILLIAM RICHARDSON,
Managers on the part of the House.

The report was agreed to.

Mr. SMOOT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 5237) granting pensions to certain soldiers and sailors of wars other than the civil war and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House, on page 2, line 22, down to and including line 2, on page 3; and agree to the same.

REED SMOOT,
CHARLES CURTIS,
ROBT. L. TAYLOR,
Managers on the part of the Senate.
H. C. LOUDENSLAGER,
WM. H. DRAPER,
WILLIAM RICHARDSON,
Managers on the part of the House.

The report was agreed to.

COURT OF COMMERCE, ETC.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 6737) to create a court of commerce and to amend the act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes.

Mr. CUMMINS. I offer an amendment to the bill. It is to be inserted after the amendment which was proposed by the Senator from Washington [Mr. JONES] and adopted by the Senate. That amendment is on page 19 at the end of line 6.

The VICE-PRESIDENT. The Secretary will read the amendment.

The SECRETARY. On page 19, at the end of line 6, and after the amendment already agreed to at that place, insert:

> And at any hearing involving a rate increased after January 1, 1910, or of a rate sought to be increased after the passage of this act the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the common carrier.

Mr. CUMMINS. Mr. President, I shall detain the Senate but for a moment with regard to this amendment. The Senate remembers, I think, with perfect distinctness the long and earnest discussion with regard to the propriety of requiring all increases in rates to be approved by the commission before they take effect.

The proposition which was contained in the amendment which I had the honor to submit has been emphasized, I think, very much in the last few days by the concern which is felt everywhere throughout the country with regard to the action of the railroads in increasing rates, many of which are to take effect on June 1.

I do not desire to go over that ground again. The amendment of the Senator from Washington [Mr. JONES] approached to a degree the end which we sought to accomplish, and now all that remains to make the amendment which the Senate has already accepted of material value to the people of the country is to declare that in these hearings the railway companies shall have the burden of proof. All the information, or practically all of it, is in their hands. It is but equitable to compel them to lay before the commission the conditions and circumstances which they believe warrant an increase in the rates.

I earnestly hope that the Senate will accept this amendment. I may add to that a fervent prayer that the distinguished Senator from West Virginia, the chairman of the committee, will see in the amendment so much merit that he will join with me in asking the Senate to do this justice to the American shipping public.

Senators, inasmuch as this is probably the last time before the passage of the bill that I will address the Senate with regard to these subjects, I crave your indulgence for a very brief retrospect.

Mr. President, nearly three months ago, speaking in behalf of a Republican minority of the Committee on Interstate Commerce, and in behalf of other Senators who in a general way shared their views, I opened the debate upon this bill with a review of its various provisions as comprehensive and analytical as I could make it. The discussion that has intervened between that time and this has been not only continuous, but earnest and intense. The Senate is now about to vote upon the bill, and in view of the fact that I would not have voted for it as it was reported by the committee, but give it my support as it now is, my purpose at the present moment is to put upon the record, in the plainest possible way and in the briefest possible time, a statement of the material changes which have been wrought in the measure, their effect upon the welfare of the people, and upon my attitude toward it.

I said when the discussion began that there were some good things in the bill as it came from the committee. I recited them then, and I recapitulate them now.

Section 8 gave to shippers the best practicable protection against a misstatement of the legal rate applicable to a shipment about to be made—a protection long deferred and imperatively needed. This provision remains unchanged.

Section 9 enlarged the power of the Interstate Commerce Commission respecting classifications. For years the commission had keenly felt its inadequate authority with regard to classifications, and it is most fortunate that Congress is about to supply this instrumentality for the better regulation of railway rates. Section 9 also broadened the power of the commission by conferring undoubted authority to initiate proceedings for the correction of unreasonable rates. In my judgment this was the most valuable addition to railway regulation which the bill as reported proposed. It will hereafter be possible for the commission, when it has any given rate under consideration upon complaint, to draw into the proceeding upon its own motion any other rate which ought to be examined in order that complete justice may be done. The added strength which

this provision will give to the commission will help to bring about some order and harmony in the chaos of rate making.

The bill as it came from the committee also extended to the commercial world a valuable privilege with respect to the routing of freight, and we are all to be congratulated that at length the shipper is to enjoy a measure of control over his own property while in transit. It also extended the authority of the commission in establishing through routes and in fixing through rates, an authority which may be used to preserve somewhat the competition so essential in transportation.

To all these things I gave then and give now my unqualified and hearty support, for they constitute some advance in railway regulation. When, however, I was compelled to compare their value with other provisions of the bill, as reported by the committee, and of which I am about to speak, I unhesitatingly reached the conclusion that the bill as a whole was bad, and had it been enacted in its original form would have marked a long backward step in the regulation of interstate commerce and the control of common carriers.

When the bill came in it established a court of commerce. I was opposed to it then and am opposed to it now. I look upon it as a serious mistake, and I predict that those who are responsible for its retention in the measure will live to regret this unnecessary, unwarranted, and harmful departure from our long-continued judicial procedure. Happily we have succeeded in so defining its jurisdiction that all the danger which the proposal threatened may not be suffered. I repeat that the court of commerce is a mistake, but inasmuch as it relates to the administration of the law rather than to the law itself, the establishment of the court will not control my vote.

I objected, in my opening observations, to those provisions which transferred the defense of suits brought to set aside the orders of the commission to the Department of Justice, and which expressly excluded the commission from all participation or interest in them, and I objected also to the failure of the bill to permit complaining shippers or organizations to be made parties to the suit. The Senate has very wisely corrected these fatal defects in the bill, and while it did not accept the precise amendment offered by the minority, it recognized the justice of our objection, and it is now provided, by an amendment, that both the commission and the complaining shippers or organizations can appear in these suits, and thus prevent any miscarriage of justice that might be imminent.

I objected to that part of the bill which permitted preliminary injunctions to issue without notice and which prevented an appeal to the Supreme Court from orders granting such injunctions. It is fortunate that the good sense of the Senate demanded the change upon which we insisted in this respect, and now the bill requires notice of an application for injunction and grants the right of appeal to the Supreme Court.

When the bill was reported there was in it a section which astonished every thinking man in the United States. I predict that the history of section 7 will not soon be forgotten either by those who wrote it, those who fathered it, or those who opposed it. It seems strange now that it could have been deliberately suggested that the antitrust law should be repealed with respect to traffic agreements without subjecting the agreements to the approval of the commission before either the agreements, or the rates under them, became effective. It is not my object to unnecessarily harrow the feelings of anyone here or elsewhere, and I am content to say only that section 7 has disappeared from the bill, and when from time to time it is lifted into notice it will only be to reproach those who were misguided enough to insist upon its adoption by the Congress of the United States.

We believed also that the provision in section 9 which authorized the commission to postpone, pending investigation, for a period of sixty days the time at which changes in rates shall take effect, was not broad enough, although we recognized from the beginning that this was an advance in the law. We insisted that no increase in rates should take effect until examined and approved by the commission. Upon this proposition the fight has been long-continued and intense.

The first sign of yielding upon the part of the majority of the committee was an amendment proposed by a distinguished member of the committee increasing the period of suspension to one hundred and twenty days, an amendment which was adopted by common consent. Then came the arrangement through which our proposal was overthrown—an arrangement that gives the commission, if necessary for its work, ten months to investigate changes in rates before they go into effect. This is not all we asked; it is not all that justice requires; but it approaches the end we sought; and assuming that the features of the bill in this respect are constitutional—upon which I express no opinion at this time—there is now in the bill a fair hope that the greater number of increases will not become effective unless they are found to be just and reasonable by the commission. I am not surprised that the committee refused to accept our amendment, for to have done so would have been contrary to its established policy. If upon any occasion we had propounded the plainest moral truth in the exact language of the decalogue, there would have been a hurried consultation and a prompt postponement in order to see whether there was not some other phraseology in which the truth could be sufficiently expressed to meet the conscience of a majority of the Senate. Nevertheless, with regard to this subject, we have a large part of the protection for which we have been contending, and while we will not suspend our efforts to make the regulation complete, we look forward with some satisfaction to the partial relief which the plan adopted will furnish.

When the bill came from the committee there was in it a section which became instantly conspicuous throughout the country for its daring attempt to reverse the most cherished principle of the Government. Section 12 is now and always will be unique in the annals of Congress. It has become and will remain a curiosity in the museum of proposed legislation. It not only swept aside in many respects the antitrust law, but it created a jurisdiction for the court of commerce the like of which the world had never seen—a jurisdiction that was intended to transfer from the forum of Congress to the forum of the court of commerce the establishment and regulation of the governmental policy respecting the merger and consolidation of railways. This section could barely withstand the first breath of criticism, and it too has gone to repose forever by the side of its sister, section 7. I have no doubt that some genius of epigram and expression will shortly compose a fitting epitaph for both, describing in apt phrase their unfortunate birth, their momentary struggle for life, their quick dissolution, and their inglorious burial.

When the bill came to us from the committee there were in it certain sections known as 13, 14, and 15. These sections had for their apparent purpose a regulation of the stocks and bonds of railway companies. They appeared to be a response to the universal demand that the Government should take prompt measures to prevent the ever-increasing volume of capitalization, which to a great extent has represented nothing more than the genius and audacity of promoters, and has been the highest evidence of the indifference of Congresses and legislatures to the true interests of the people. I do not intend to analyze these sections. I only say of them that if they had been enacted into law, they would have not only not have regulated and prevented overcapitalization, but they would have approved the crimes that have already been committed against common honesty in the issuance of stocks and bonds. It gave me the utmost pleasure to see them follow the fate of sections 7 and 12. We have heard the last of them, but we have not heard the last of an effort to carry into effect the deliberate intelligent decree of the American public. The people intend that the capitalization not only of railway corporations, but of all corporations, shall in the future represent the real investment; and while the efficient amendment proposed by my colleague in this regard was voted down it might as well be understood that those of us who believe that restrictions should be laid on corporations engaged in interstate commerce, with regard to their stocks and bonds, will continue our labors from session to session, until capitalization becomes an index of value, and not the evidence of dishonest gain.

I have concluded my references to the bill. Those for whom I speak believe it to be, in its present form, some advance along the pathway of railway regulation, and we intend to give it our support, making conspicuous wherever we can its merits, but never concealing the fact that there are many things Congress ought to do in the further protection of the public against the power of railways that it has not done in this bill. We have done what we could to take from the bill those provisions which we believed to be harmful to the welfare of commerce, and we have faithfully sought to put into the bill those provisions which we believed would promote the general good.

From the beginning to the end we have endeavored to hasten the consideration of the measure in every way that was consistent with full debate and complete understanding. If there has been delay, beyond fair discussion, the fault will be found elsewhere. We have been as free to commend what we thought to be right as we have been frank to denounce what we believed to be wrong. We submit our work to the judgment of an intelligent and discriminating public.

Mr. SMITH of Maryland obtained the floor.

Mr. CARTER. Mr. President, I desire to ask the Senator from Iowa [Mr. CUMMINS] a question before he resumes his seat.

The VICE-PRESIDENT. But the Senator from Iowa has resumed his seat. Does the Senator from Maryland yield to the Senator from Montana?

Mr. SMITH of Maryland. I do.

Mr. CUMMINS. I shall be very glad to answer any question the Senator may ask.

Mr. CARTER. I ask the Senator from Iowa if he does not think that the text of the bill which he proposes to amend does now cast the burden of proof upon the common carrier? My understanding of the text is that the Interstate Commerce Commission, on its own motion or on the complaint of a shipper, may suspend a rate proposed for a period of one hundred and twenty days, and, if at the expiration of the one hundred and twenty days the commission, in its discretion, deems a further extension necessary in order to complete a hearing it may extend the time further, but not to exceed six months. Is it not a fact, or a correct legal conclusion, that the suspension of the rate by the Interstate Commerce Commission throws upon the railroad company the burden of proof to show that the rate is reasonable?

Mr. CUMMINS. Mr. President, in my opinion it is not, for this reason: The rate is filed by the railroad company and would ordinarily go into effect in thirty days without any action at all upon the part of the commission. The law gives the commission power in the language which I shall now read to the Senate:

> And it is hereby given authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders, without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the propriety of such rate, fare, charge, classification, regulation, or practice.

Therefore, as the Senator from Montana will see, the proceeding is instituted either by a shipper through complaint or it is instituted by the commission itself. In either case it is a complaint lodged against the rate. I believe it to be true that the same rule will apply to such a proceeding as applies to proceedings that are carried on now under complaint of the shipper. The shipper or the commission, as the case may be, must prove that the rate is an unreasonable rate.

Mr. CARTER. The Senator, upon reading further, will ascertain that the text provides for a suspension of the rate pending the hearing and the conclusion of the commission as the result of the hearing. The suspension in and of itself challenges the reasonableness of the rate, according to my view. I am free to say, Mr. President, that if the burden of proof is not thereby thrown upon the railroad company, the amendment of the Senator from Iowa might, through an abundance of caution, be added; but I doubt the necessity for the amendment.

Mr. CUMMINS. Mr. President, I am sure the Senator from Montana, upon a little reflection, will see that at least there is a very grave doubt about it. The action of the Interstate Commerce Commission is analogous to a preliminary injunction. Suppose that the complainant in a bill of equity files his suit in the circuit court of the United States and he applies for and secures a preliminary injunction postponing, if you please, or delaying the event that is sought to be questioned or investigated. When, however, the court comes to consider the bill, the burden of proof is not changed by reason of the fact that the court has issued its preliminary order disposing of it for the time being; the burden is still upon the complainant. The complainant in this instance is either the commission or it is the shipper. I see nothing whatever in this section that has any tendency to change the burden of proof.

Mr. CARTER. Mr. President, in the case cited by the Senator from Iowa a bill in equity being filed, a preliminary restraining order is not issued unless the bill, upon its face or affidavits in support of it, make out a prima facie showing entitling the complainant to the relief sought.

Mr. CUMMINS. No more is it here.

Mr. CARTER. And in this case the moment the commission challenges a rate by an order of suspension and orders a hearing, surely the commission, which has challenged the rate, by the challenge puts the railroad company to the proof of sustaining the rate challenged. If that be not the presumption, as I have said, if there be any doubt about it, then the amendment of the Senator would remove the doubt.

Mr. CUMMINS. I have no desire, of course, to challenge the legal view or the capacity, in other words, of the Senator from Montana to draw correct conclusions; but I am sure that the result which he, as well as I, want to reach will not be reached under this section unless it is amended.

Mr. CARTER. I am still inclined to the opinion, Mr. President, that the burden of proof would be upon the railroad company as the text of the bill now stands, but the amendment proposed by the Senator from Iowa would unquestionably fix the burden of proof by a direct statutory provision.

Mr. ELKINS. I wish to ask the Senator from Iowa a question.

The VICE-PRESIDENT. Does the Senator from Maryland yield to the Senator from West Virginia?

Mr. SMITH of Maryland. I do.

Mr. ELKINS. The amendment which the Senator from Iowa [Mr. CUMMINS] has suggested seems to me to be retroactive. The Senator goes back to railroad rates increased after January 1, 1910. Why not restrict the amendment to the rates sought to be increased after the passage of this act? Let me ask the Senator if he could go back to 1910, could he not go back to 1909?

Mr. CUMMINS. I will tell the Senator why I do not. Everybody recognizes that since the 1st of January of the present year an abnormal situation has existed. The railway companies, in anticipation of the passage of this bill and the law which we hope will grow out of it, have been everywhere universally raising their rates. I believe that that situation demands that the same rule be applied to the rates which have been increased since the 1st of January of the present year that we seek to apply to increases hereafter made. There is no injustice in it. The railway companies have all the knowledge and all the information, and I hope that the Senator from West Virginia will recognize this tremendous, gigantic effort on the part of the railroad companies to get their increased rates into effect before this bill passes, and will not object to that part of the amendment.

Mr. ELKINS. I will say to the Senator that I have no objection to this amendment if it applies, as all laws should do, to rates sought to be increased after the passage of this act. I do not see why the Senator fixes it arbitrarily at January 1, 1910.

Mr. CUMMINS. I have just stated to the Senator why I did so.

Mr. ELKINS. The Senator says there has been an abnormal increase in rates since January 1. I think if there is any abnormal increase it has been more recently. I have no objection to this amendment, except that it does look to me that it is not good legislation to pass a retroactive bill. That is just what this amendment means. I will not make any opposition to the amendment if the Senator will withdraw those retroactive words.

Mr. CUMMINS. I can not, Mr. President, for I think those words essential to meet the unusual and extraordinary conditions.

Mr. ELKINS. I make no objection, then, to the amendment.

The VICE-PRESIDENT. The question is on the amendment offered by the Senator from Iowa [Mr. CUMMINS].

The amendment was agreed to.

Mr. SMITH of Maryland. I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 19, after the word "water," in line 22 of the amendment already agreed to, it is proposed to insert:

> And any transportation by water affected by this act shall be subject to the laws and regulations applicable to transportation by water.

Mr. SMITH of Maryland. Mr. President, the object of this amendment is that the law which now exists and is now in force in regard to damages done by accident shall still remain in force and effect.

Mr. ELKINS. I accept the amendment.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. BRISTOW. Let me inquire if that would in any way modify the authority of the Interstate Commerce Commission to fix a joint or through route—a division of routes between water and rail?

Mr. SMITH of Maryland. Not in the slightest degree. The only object is that the present law in regard to damages which may arise from accident may remain as it now is.

Mr. SMOOT. I should like to have the amendment again stated. I did not catch it.

The VICE-PRESIDENT. The amendment will be again stated.

The SECRETARY. On page 19, line 22, after the word "character," the Senate has already agreed to an amendment to read as follows:

> Nor shall the commission have the right to establish any route, classification, rate, fare, or charge when the transportation is wholly by water.

It is now proposed to add, after the word "water," the following words:

And any transportation by water affected by this act shall be subject to the laws and regulations applicable to transportation by water.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Maryland [Mr. SMITH].

The amendment was agreed to.

Mr. LA FOLLETTE. Mr. President, I neglected, when addressing the Senate the other day, to ask leave to print in the RECORD, in connection with my remarks, the chart to which I made frequent reference in the course of my argument, and I now prefer that request.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Wisconsin? The Chair hears none.

Mr. LA FOLLETTE. Mr. President, I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. After line 7, on page 24, it is proposed to insert a new section, to be known as section 10*a* and to read as follows:

SEC 10a. That the act to regulate commerce approved February 4, 1887, as amended, is hereby amended by adding thereto a new section, to be known as section 19a and to read as follows:

"SEC. 19a. That the commission shall investigate and ascertain the value of the property used for the convenience of the public by every common carrier subject to the provisions of this act. For the purpose of such an investigation and ascertainment of value, the commission is authorized to employ such engineers, experts, and other assistants as may be necessary, who shall have power to administer oaths, examine witnesses, and take testimony. The value shall be ascertained by means of an inventory which shall list such property so used by every common carrier subject to the provisions of this act in detail, and shall classify the physical elements of such property in conformity with such classification as the commission may prescribe.

"The commission shall have power to prescribe the method of procedure to be followed in the conduct of the investigation, the form in which the results of the valuation shall be submitted, and the classification of the elements that constitute the ascertained value; and such investigation shall show the value of the property used by every common carrier as a whole and the value of such property in each of the several States and Territories and the District of Columbia.

"Such investigation shall be commenced not later than January 1, 1911, and shall be prosecuted with diligence and thoroughness, and the result thereof reported to Congress at the beginning of each regular session thereafter until completed.

"Every common carrier subject to the provisions of this act shall furnish to the commission, or its agents, from time to time and as the commission may require, maps, profiles, contracts, reports of engineers, and any other documents, records, and papers, or copies of any or all of the same, in aid of such investigation and determination of the value of the property used by said common carrier, and shall grant to all agents of the commission free access to such property, its right of way, and its accounts, records, and memoranda, whenever and wherever requested, by any such duly authorized agent, and every common carrier is hereby directed and required to cooperate with and aid the commission in the work of such valuation of property in such further particulars and to such extent as the commission may require and direct; and all rules and regulations made by the commission for the purposes of administering the provisions of this section and section 20 of this act shall have the full force and effect of law.

"Upon the completion of the work herein provided for the commission shall thereafter, in like manner, keep itself informed of all extensions and improvements or other changes in the condition and value of the property used for the convenience of the public by every common carrier subject to the provisions of this act, and shall ascertain the value thereof, and shall, from time to time as may be required for the proper regulation of such common carriers under the provisions of this act, revise and correct its valuation of property.

"To enable the commission to make such changes and corrections in its valuation, every common carrier subject to the provisions of this act shall report currently to the commission, and as the commission may require, all improvements and changes in the property used by it for the convenience of the public, and file with the commission copies of all contracts for such improvements and changes at the time the same are executed.

"Whenever the commission shall have completed the valuation of such property so used by any common carrier, and before said valuation shall become final, the commission shall give notice by registered letter to said carrier, stating the valuation placed upon the several classes of property used by said carrier, and shall allow the carrier thirty days in which to file a protest against the same with the commission. If no protest is filed within thirty days, said valuation shall become final.

"If notice of protest is filed by any common carrier, the commission shall fix a time for hearing the same, and shall proceed as promptly as may be to hear and consider any matter relative and material thereto which may be presented by such common carrier in support of its protest so filed as aforesaid. If after hearing any protest of such valuation under the provisions of this act the commission shall be of the opinion that its valuation is incorrect, it shall make such changes as may be necessary, and shall issue an order making such corrected valuation final. All final valuations by the commission, and the classifications thereof, shall be prima facie evidence relative to the value of the property in all proceedings under this act.

"The provisions of this section shall apply to receivers of carriers and operating trustees. In case of failure or refusal on the part of any carrier, receiver, or trustee to comply with any of the requirements of this act and in the manner prescribed by the commission such carrier, receiver, or trustee shall forfeit to the United States the sum of $500 for each such offense and for each and every day of the continuation of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act.

"That the circuit and district courts of the United States shall have jurisdiction, upon the application of the Attorney-General of the United States at the request of the commission, alleging a failure to comply with or a violation of any of the provisions of this act by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of this act."

Mr. LA FOLLETTE. Mr. President, I shall not detain the Senate this afternoon to add very much to what I said in the debate a few days ago upon the importance of this amendment.

It is some fourteen years since the Supreme Court of the United States declared that the basis for ascertaining reasonable rates is the fair value of the property used by the railroads for the convenience of the public. That, Mr. President, fixed the standard for Congress to apply. Following that decision by the United States Supreme Court, the Interstate Commerce Commission, in its annual reports, urged upon Congress the vital importance of the valuation of the physical properties of the railways as the necessary foundation for ascertaining the reasonable rate in every controverted case.

I have read, Mr. President, the urgent appeals of the Interstate Commerce Commission to Congress year after year down to the time when we enacted the Hepburn law. When that bill was pending in this body in 1906 I submitted facts and arguments for the valuation of the railway property of the country employed in interstate commerce which were unanswered and unanswerable, but the Senate by an overwhelming vote rejected the amendment offered at that time.

Now, Mr. President, I purpose to put into the RECORD the further appeals made by the commission from year to year since the enactment of the Hepburn law for the valuation of the physical properties of railway companies engaged in interstate commerce, because no one can better state the reasons for the valuation of the railroad properties than the Interstate Commerce Commission itself states them; and since the statute made it obligatory upon the commission annually to state to Congress the necessary changes required in the law for the regulation of interstate commerce, it seems to me that we are bound by the law to give serious consideration to the recommendations of that body.

I do not believe, Mr. President, that I am far amiss when I say that the words I now read may fall upon the ears of Senators for the first time. I can not believe that the chairman of the Committee on Interstate Commerce and his associates who control the action of that committee are cognizant of the urgent recommendations made by the Interstate Commerce Commission for the valuation of the physical properties of the railway companies. I appeal to Senators to listen to these recommendations, confident that they must move the membership of this body to support the amendment which I have offered.

Let me pause here to say that I have introduced this amendment at every session since I have been a member of the Senate. It has been referred to the Committee on Interstate Commerce. I have taken the precaution to submit it to the Interstate Commerce Commission, and I offer it to-day and assert that in all its provisions it meets the approval of the Interstate Commerce Commission as containing the authority necessary to carry on the work which they have recommended as all important if the people of this country are to be afforded reasonable transportation charges.

Before presenting the recommendations of the commission I stop to recapitulate. Going back to 1871–72, the movement which swept over this country and brought about the enactment of the law of 1887 was a movement for reasonable rates. That was the primary thing; that was the idea around which public opinion crystallized; that was the dominant thought that brought Congress finally, after fifteen years, to enact the law of 1887. And, Mr. President, while in the enactment of that law of 1887 they declared that transportation charges should be just and reasonable, they left out the one thing by which the commission could determine what rates were just and reasonable.

The Supreme Court in 1896 and again in 1897 laid down in plain, specific terms the rule for determining reasonable rates, namely, the fair value of the property, and a fair return upon that value after paying the cost of maintenance and operation.

Then came the enactment of the Hepburn law, and again we did just what we had done in 1887. We said that unreasonable rates were unlawful, but we were very careful to withhold from the commission any means of ascertaining reasonable rates. We deprived them of the standard by which they could measure the reasonableness of rates. We refused to incorporate in that law authority to determine the physical value of the railway properties of the country.

We now have under consideration this bill which if adopted will be the third general enactment of law governing interstate transportation. Again we find that the bill is reported from the committee without this corner stone of all regulation of railway rates and service, this fundamental provision for the true fair value of the property employed in the business. I now ask the attention of the Senate to the language of the Inter-

state Commerce Commission in their annual reports since the enactment of the Hepburn law.

Mr. PAYNTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Kentucky?

Mr. LA FOLLETTE. I do.

Mr. PAYNTER. I do not understand the Senator as taking the position that the valuation which may be made by the Interstate Commerce Commission under the provisions of his amendment would be conclusive in a case wherein the question should arise as to whether rates were reasonable or not.

Mr. LA FOLLETTE. I have purposely omitted from the proposed amendment any rule governing the Interstate Commerce Commission in the fixing of rates. I have simply provided that they shall ascertain the value of the physical properties of the railway companies of this country, and I have incorporated in the amendment proposed the provisions necessary to enable them to get that physical value. As to how they shall proceed in fixing the rates thereafter is determined by the rule laid down by the Supreme Court of the United States, which Congress can not alter, for that rule safeguards constitutional rights of both carrier and shipper. I have thought best——

Mr. PAYNTER. Mr. President——

Mr. LA FOLLETTE. Pardon me just a moment. I have thought best not to complicate this amendment with anything beyond that which the Supreme Court says is a preliminary step in the fixing of reasonable rates—the value of the property used in the business of transportation.

Mr. PAYNTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Kentucky?

Mr. LA FOLLETTE. I do.

Mr. PAYNTER. The impression I have is that this measure does not attempt to make the ascertainment by the commission final and conclusive in a controversy.

Mr. LA FOLLETTE. Not at all.

Mr. PAYNTER. I find this provision—and I want to say to the Senator it meets my hearty approval, but I wish to see whether or not he understands the law as I do, because I do not think the courts could be deprived in a controversy of the right to determine that question for themselves—I find this clause:

> All final valuations by the commission and the classifications thereof shall be prima facie evidence relative to the value of the property in all proceedings under this act.

I think that is entirely proper.

Mr. LA FOLLETTE. Yes.

Mr. PAYNTER. And I understand that is the import of this amendment.

Mr. LA FOLLETTE. But it leaves it to be finally determined by the court. You can not deny the railroad companies an opportunity to go into the courts to determine whether their property is being confiscated or not. There is no line or word in this amendment subject to that interpretation.

Mr. PAYNTER. I was not endeavoring to find some grounds on which I might disagree with the Senator——

Mr. LA FOLLETTE. I understood the Senator.

Mr. PAYNTER (continuing). But to see whether or not there were some grounds upon which I could agree with him.

Mr. LA FOLLETTE. After we had passed the Hepburn Act and refused to incorporate a provision for the valuation of the physical properties of the railroads, ignoring the fact that the commission had year after year appealed to Congress to do so, the commission, in its report for 1907, said:

> Reference has been made in these reports to the importance of a physical valuation of railway properties. The considerations submitted in favor of such valuation need not be repeated at this time. It may, however, be proper to call attention to the fact that the introduction into operating expenses of a set of depreciation accounts brings prominently into view an added necessity for an inventory of railway property.

You see, when they came to apply the new provisions of the Hepburn Act, there were forced upon them added reasons for the valuation of the physical property other than as a basis for fixing reasonable rates.

> The chief purpose of the depreciation of accounts is to protect the investor against the depletion of his property by an understatement of the cost of maintenance and to protect the public against the maintenance of unduly high rates by charging improvements to cost of transportation. These accounts, which serve so important a purpose, require for their proper and safe administration complete and accurate information relative to the value of the property to which they apply, and this information can only be secured by a formal appraisal embracing all classes of railway property.

Mr. President, if we have a desire to rehabilitate railway securities, or to protect the people who are investing their savings in them, if we would give to railway securities some standing, some stability, not only in our own but in foreign markets, here is an added reason why we should provide for an authoritative valuation of the property upon which those securities are issued. I quote further from this report for 1907:

> Yet another reason may be submitted. Before the close of the present fiscal year, the commission will be in a position to circumscribe a standard form of balance sheet. The purpose of a balance sheet is to disclose the financial standing of a corporation, and this it does by placing in parallel columns a statement of assets and of liabilities. But in the case of railway companies the commission is unable to test the accuracy of the assets reported, and there is no feasible means of providing such a test other than by a detailed inventory of the property which the assets represent. If the Congress designed, by the provision which it made for a prescribed system of accounts, that the commission should do what lies in its power to guarantee the sound financing of railways, the making of an inventory appraisal of railway property can no longer be delayed.

Mr. President, how is it possible for any Senator to find a reason for withholding his support from the amendment which I have offered? If you set aside all that the Supreme Court has said, if you set aside all the urgent appeals which the commission has made from time to time for the valuation of railway property as a basis for ascertaining reasonable rates, if you ignore the interests of the millions of people in this country who are entitled to reasonable rates, and consider only the value of railway securities, if you consider only the interests of those who invest their money in railway securities, then you should find that a sufficient reason for supporting this amendment.

The commission says further:

> The commission can not emphasize too strongly the significance of the supervisory work which, upon the authority conferred by the twelfth section of the act to regulate commerce, as amended, has assumed such large proportions; and believing as it does that a comprehensive, systematic, and authoritative valuation of railway property is essential for the successful development of this work, as well as for the other purposes named, it does not hesitate to submit to Congress a formal recommendation for the enactment of a law under which such valuation can be made.

I have seen, as other members must have seen upon their desks, an amendment which I understand will be offered by the Senator from Kansas [Mr. CURTIS], providing an appropriation of $100,000 with which to inaugurate a valuation of railway property under the auspices of the Interstate Commerce Commission. If a valuation is to be made and public interests and the interests of investors are to be safeguarded, it is absolutely essential that it should be done under statutory provisions which will insure its being done thoroughly and in accordance with scientific and economic principles.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from New Hampshire?

Mr. LA FOLLETTE. I do.

Mr. GALLINGER. I assume that the amendment proposed by the Senator from Kansas appropriating $100,000 would not be sufficient to more than commence this work; and I will ask the Senator from Wisconsin if I am correctly informed, or approximately so, when certain gentlemen who claim to know a good deal about this matter say it will cost $8,000,000 or $9,000,000 to do this work?

Mr. LA FOLLETTE. I think I am able to make a fairly authoritative answer to the question of the Senator from New Hampshire. I have referred before to the very careful valuation of the physical properties of the railroads made by the Wisconsin commission. Their engineers, contractors, bridge builders, architects, real-estate experts, have been sent to inspect every detail of the property. Engineers have gone on foot over the mileage. They know what bridges are builded of wood; what bridges are builded of concrete; what bridges are constructed of steel. They know how all the depots are constructed, how much real estate each railroad company owns. They know the value of the terminals used by the Wisconsin railroad outside of our State and the extent to which the companies outside of Wisconsin use those terminals. They have gone step by step over every inch of this ground, and I can say to the Senator from New Hampshire that at an expense not exceeding $10 per mile, or $2,400,000 for the entire mileage of the United States, we can learn the value of the physical properties of the railroad companies of this country engaged in interstate commerce.

I undertake to say further, Mr. President, that if we will expend that amount of money enabling us to bring railway rates to the proper basis as fixed by the Supreme Court, and as applied in the State of Wisconsin, we will be saved in railway transportation charges in twelve months more than a hundred and fifty times the cost of making the valuation of the physical properties of the railroads of the country.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin further yield to the Senator from New Hampshire?

Mr. LA FOLLETTE. I do.

Mr. GALLINGER. I remember that the Senator a few days ago called attention to the fact that the State which he so ably represents had made this valuation. I will ask the Senator exactly what that has resulted in so far as intrastate commerce is concerned?

Mr. LA FOLLETTE. Does the Senator mean so far as a reduction of the rates is concerned?

Mr. GALLINGER. Yes. In other words, are the railroads in Wisconsin which have been valued giving lower rates to the people of Wisconsin in intrastate traffic than the railroads in other States where their property has not been valued? I have no knowledge of the question, and I ask for information in good faith.

Mr. LA FOLLETTE. I answer in the same spirit. Following the valuation of the railway property of that State and the division of the cost of maintenance and operation so far as Wisconsin business was concerned, the railway commission entertained petitions for the reduction of rates. The first complaints that were entertained by the commission were of overcharges on the intrastate transportation of the grain products of that State. After an investigation they reduced the rates just on the transportation within the State, $700,000 on the grain crop of one year. Then they made reductions in coal rates. They made reductions in transportation charges with respect to all commodities. They made reduction in transportation charges with respect to classifications, the result being, as I now have it in mind, in a general way, that the transportation reductions were between $2,000,000 and $3,000,000.

Mr. President, I would not be understood as saying that the work of the Wisconsin commission has been completed. It is only fairly inaugurated. For almost upon the heels of the first application by our commission of these elementary principles of rate making the Wisconsin legislature passed a general-utilities law, under the terms of which they committed to the Wisconsin commission the regulation of the rates of all public utilities in the State of Wisconsin. That meant that all of the public utilities of the State—street and interurban railways, electric-light, gas, and water plants—were placed under the control of this commission, and immediately complaints began to come to them from the various municipalities.

They have just settled the measure of profit that the electric-light and gas company in the city of Madison, the capital of the State, is entitled to receive from its investment. That case was most thoroughly tried, as all of their work is thoroughly done. They ascertained the true value of the Madison gas and electric-light plant as completely and thoroughly in detail as though they were serving as a public body required to let a contract for the construction of that plant for the public. They determined accurately with respect to every element that goes into physical valuation.

They set aside and took away the franchise value. They eliminated as an element of proper cost charge what is called "good will," because no natural monopoly is entitled, according to the theory of the Wisconsin commission, to make any charge for good will. They took out what is claimed as an asset under the designation of a going concern. All that was set apart, and they ascertained the true value of the property and fixed the rate which the Madison Electric Light and Gas Company shall be entitled to charge and the interest or fair profit it shall be entitled to receive on the true value of its property.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin further yield to the Senator from New Hampshire?

Mr. LA FOLLETTE. I do.

Mr. GALLINGER. Just a word. The Senator says they eliminated the franchise value. The Senator is doubtless familiar with the fact that in the Consolidated Gas case in New York the Supreme Court did allow a franchise valuation, but not the——

Mr. LA FOLLETTE. And there was a special reason for it in that particular case, which I believe will not be found to apply in any other case that will ever come before the Supreme Court of the United States. That any company should be entitled to put in as an asset, upon which to tax the public, the franchise which the public confers upon the public-utility corporation is a proposition to which I think no fair mind would assent.

Mr. GALLINGER. I was not arguing it——

Mr. LA FOLLETTE. No; I understand——

Mr. GALLINGER. But I was merely stating a fact. I want to ask the Senator from Wisconsin another question, because it has a bearing upon some matters that are frequently before Congress, and that is as to capitalization.

Is the Senator of opinion that when the true value, exclusive, we will say, of the franchise and good will, or of the element that goes under the term of a going concern, of a property used by a public-utility corporation is ascertained, that that corporation ought to have the right to capitalize to the full amount of the property so ascertained?

Mr. LA FOLLETTE. I think we are for the present bound by the declaration of the Supreme Court on that subject. I think there may be some ground for reargument of that question before the Supreme Court, and it is possible that the court may arrive finally at a different determination. But the rule as laid down at present is the fair value of the property used now for the benefit of the public, and until that rule is changed I think we must accept the present value of the property as the true value which will ultimately come, I believe, to guide the Interstate Commerce Commission in the fixing of rates unless the Supreme Court upon reargument of that proposition shall arrive at a different determination.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from New Hampshire?

Mr. LA FOLLETTE. Yes.

Mr. GALLINGER. I stated that I had been informed by certain parties who claimed to have knowledge that it would cost $8,000,000 or $9,000,000 to make the valuation. The Senator a moment ago said $2,400,000. The Senator in 1906 put the amount at $5,000,000.

Mr. LA FOLLETTE. I stated at that time the total cost, I will say to the Senator from New Hampshire, of a double valuation; that is, what it would cost the Government and what, in addition, it would cost the railway companies, to check over the work of the Government in order to protect their interests. If we start in on a federal valuation of railway property, the railways are likely to go step by step with the Government over all of that ground, and in all probability they will expend about as much as the Government will, and in the aggregate it will make about $5,000,000.

Mr. NEWLANDS and Mr. DIXON addressed the Chair.

The VICE-PRESIDENT. Does the Senator from Wisconsin yield, and to whom?

Mr. LA FOLLETTE. To the Senator from Nevada. I think he first rose.

Mr. NEWLANDS. I wish to ask the Senator from Wisconsin whether the valuations made by the state authorities of Wisconsin on the one side and by the railroads on the other in the end differed very widely.

Mr. LA FOLLETTE. They did not differ very widely. The railway valuations were a little less than the state valuations, as a matter of fact, but the first valuation in Wisconsin was made by the tax commission for purposes of taxation, and, the valuation being made for purposes of taxation, the value returned by the railroads was a little less than the valuation returned by the State, because——

Mr. NEWLANDS. That was in a case of taxation?

Mr. LA FOLLETTE. Yes.

Mr. NEWLANDS. Then was there subsequently a valuation made for purposes of rate regulation?

Mr. LA FOLLETTE. No; the railway commission took the valuation made by the tax commission, which had been very thorough in all its details, as a basis for the making of their rates at the outset.

Mr. NEWLANDS. And has that valuation, I will ask, been accepted by the railways as the real valuation?

Mr. LA FOLLETTE. That valuation was contested in its application to taxation and was carried to the supreme court of the State of Wisconsin, and was sustained by the supreme court.

Let me say that our commission makes an annual valuation, just as I have provided in this amendment for a valuation that shall keep accurate account of the improvements made by the railroad, that shall add to the value of their property from year to year as they improve and extend their lines, so that they shall be protected in all respects upon the additions which they make to their property from time to time. That process is going on all the while in Wisconsin, just as I have proposed here in this amendment that the Interstate Commerce Commission shall take account of all extensions, all new construction, all betterments and permanent improvements, and shall add that from time to time to the value of the railroads as ascertained in the first instance, so that no injustice shall be done to the capital invested in the railway property of this country. For, Mr. President, we can not afford for a moment to deal unfairly with these great transportation companies. We can have no prosperity in this country excepting as we have the best transportation facilities. We are dependent upon transportation to get the products of labor and of capital to the markets, upon which we must realize on our labor and our capital.

Therefore, Mr. President, we want the very best transportation facilities, and we want to invite capital to invest in transportation, and insure the capital so invested a fair return and see that it is protected.

If I may say just a word more about what we have done in Wisconsin in order to protect the capital which is already invested in public utilities and in railroads in that State, we have provided that no railroad can be built, no electric line, no telephone companies organized, no telegraph lines operated within the State without the determination of our commission that such construction is in the public interest.

That is wise and progressive legislation, and that makes capital secure in the State of Wisconsin. So our corporations there are going on extending their investments and their properties in that State because they know they will be accorded a fair and reasonable protection.

Mr. CRAWFORD. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from South Dakota?

Mr. LA FOLLETTE. Certainly.

Mr. CRAWFORD. I should like to know what difference has been disclosed since the value of the physical property in Wisconsin has been in this manner ascertained. What difference would there be between that ascertained value and the value which had been returned previously by the railway companies year after year for taxing purposes?

Mr. LA FOLLETTE. I can hardly answer that question for the reason that just at that time we changed the system of railway taxation in Wisconsin. We had formerly taxed our railroads on gross earnings and permitted them to return their gross earnings under oath at whatever amount they chose to state. In connection with this advanced movement we abolished that system and assessed their property at its true value, and therefore it is difficult to make that comparison.

Mr. JONES. Mr. President——

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Wisconsin yield to the Senator from Washington?

Mr. LA FOLLETTE. Certainly.

Mr. JONES. What difference was ascertained between the true value and the amount at which the roads had been previously capitalized?

Mr. LA FOLLETTE. It was very considerable. In the case of the Northwestern and the Chicago, Milwaukee and St. Paul it was not so much. Those companies were not greatly overcapitalized, but in the case of some of the other roads it was about one-half of the capitalization of those roads. So upon the average it was a very considerable reduction as against their nominal capitalization.

Mr. PAYNTER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Kentucky?

Mr. LA FOLLETTE. Certainly.

Mr. PAYNTER. I agree with the Senator upon this matter of valuation, but I recognize that it is very important that every element which should properly enter into the matter of value should be considered by the Interstate Commerce Commission. If the amendment excludes anything of that kind then it would be certainly an error and perhaps render the provision invalid in declaring the prima facie value.

It has been a good while since I have read the opinion of the Supreme Court upon the question as to the elements which should enter into the question of the valuation of railroad property for the purpose of appraisement. The amendment provides:

> That the commission shall investigate and ascertain the value of the property used for the convenience of the public by every common carrier subject to the provisions of this act.

Would it be proper for the commission to take into consideration the original cost of construction or the cost of reproduction?

Mr. LA FOLLETTE. I will say to the Senator that would unquestionably be one of the elements which would be considered by the commission in ascertaining the true, fair value, but it is not necessary, nor do I regard it wise, to undertake to enumerate all the elements of value which the commission shall consider. All that the commission is directed to do is to ascertain the true, fair value of the property used for the convenience of the public.

The Supreme Court in the case of Smyth *v.* Ames enumerated six different things which should be taken into account as aiding in determining the true, fair value, and then they said, and wisely, that there are other elements undoubtedly that should be taken into account. They were not laying down in the enumeration of all those items a hard and fast rule that should be followed, but rather suggesting some of the elements which would aid in forming a judgment as to the true value.

Mr. PAYNTER. I remember the case very well, but I could not for the moment recall all the elements that entered into it. I asked the question in order that it might remove any doubt which might be in some one's mind. This general clause is intended to embrace all the elements of value that the commission should consider in determining a prima facie value.

Mr. LA FOLLETTE. The amendment as offered would authorize them to embrace the elements enumerated in the Smyth case and any others that ought to be taken into consideration. If we undertake to enumerate and omit any elements that they should take into account in fixing the true value we should jeopardize the validity of the entire provision. As the Senator very well knows, good lawyer as he is, we are very much safer in following the rule of just simply saying that they shall ascertain the true, fair value.

Mr. PAYNTER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield further to the Senator from Kentucky?

Mr. LA FOLLETTE. Certainly.

Mr. PAYNTER. The clause on page 5 provides that the valuation of the commission and the classifications shall be prima facie evidence. Would it be wise and safe to add to that a proviso that that shall be the case where they considered all the elements that enter into a determination of the value? I do not offer an amendment; I merely make the suggestion.

Mr. LA FOLLETTE. I think it would not be necessary to add that. Every step of the valuation will be contested by the railroad and all of the testimony taken upon both sides. Every proper item of value will be considered by the court that passes upon the question whether the commission has found the true, fair value of the property. If they have left out one single element—and the railroad will be very diligent in suggesting all the elements that ought to be incorporated—then we may be certain that their valuation will not be permitted to stand. The court will protect—is bound to protect—the railway property against confiscation.

Mr. President, I am anxious to get along with my argument, and yet I am very willing to yield to questions.

As a further appeal to Senators I wish to bring to your attention what the commission said in 1908 about the importance of taking the step which I am urging upon the Senate. Let me say to Senators that if this wise and just provision is defeated and deferred there will come a time when, for the protection of the railway property and railway investors themselves, the railroads of the country will appeal to Congress for this legislation.

Mr. President, some of the railroads have issued pamphlets warning Members of Congress against voting for an amendment of this character, saying if they do and there should be a true valuation it will have a tendency to advance rates rather than to lower them.

That is not in accord with the view which I hold; but, Mr. President, if that should be the case, then the people of this country should pay rates upon that valuation. The railroads are entitled to it. If the value of their property will sustain the rates which they have charged when that value is fairly and honestly made, or will sustain an increase in those rates, they are entitled to it. None of us should hesitate for one moment to apply the true rule laid down by the Supreme Court of the United States for measuring reasonable rates, let the result be what it will. We should deal justly both by the public and the railroads.

It is very hard, Mr. President, for me to review the recommendations made by the commission from year to year without criticising this body and the House of Representatives for not acting upon them, for no reason has ever been assigned by anybody why we should not have acted upon them; none can be and none will be given in this debate. Only one inference can be drawn, and that is that there has been a fear that the valuation of the railway property of the country would result in the reduction of the rates of the railroads. In 1908 the commission said:

> The commission has, in previous reports, expressed the opinion that it would be wise for Congress to make provision for a physical valuation of railway property, and desires to reaffirm in this report its confidence in the wisdom of such a measure. The change which has gradually taken place in the past few years, as well as the increased responsibilities imposed upon the commission by the amended act to regulate commerce, makes continually clearer the importance of an authoritative valuation of railway property, made in a uniform manner for all carriers in all parts of the country.

What do the commission mean when they say "the change which has gradually taken place?" They mean what is por-

trayed on that map hanging on the wall of the Senate Chamber [indicating]. They mean that all competition has been eliminated. They mean that the public has no recourse, but must pay whatever rates the railroads in combination chose to charge. There was no way in which the commission could check advances, because the commission could not say that the rates charged were unreasonable.

Oh, somebody will suggest in answer to this argument that the commission have from time to time reduced rates. That is true. They have reduced rates when complaint has been made by one community or by one shipper that some rate paid by that shipper or that community was higher than some other rate paid by some other shipper or community for a similar service, and their only standard of adjusting those differences was the fact that there were differences, for they had no real standard; they had no way of determining whether either rate was, in fact, a reasonable rate.

Mr. President, I should like to have the attention of the Senate to the next statement made by the Interstate Commerce Commission, so that Senators may see how completely the commission is at the mercy of the railroad companies in every single case that arises for trial under the law, even where complaint is for an equalization of rates:

There is a growing tendency on the part of carriers to meet attacks upon their rates by making proof, through their own experts and officials, of the value of or the cost of reproducing their physical properties. In what is known as the Spokane case, which is now under advisement by the commission, and which involves the reasonableness of the general schedules of Spokane rates on the Great Northern and Northern Pacific, the defendants, apparently at the expense of much time and labor, compiled elaborate and detailed valuations and offered them in evidence before the commission in the defense of the rates of which complaint has been made. It is obviously impossible for shippers, who are the complainants in such cases, to meet and rebut such testimony, or even intelligently to cross-examine the railroad witnesses by whom such proof is made. In addition to the large expense of retaining experts competent to make such investigations, neither the shippers nor their experts and agents under existing statutes have any right of access to the property of carriers.

I want Senators to heed that for just a minute. If we are to be offered here as a palliative at this time an amendment that $100,000 shall be appropriated for the commission to ascertain the value of railway property at once, without the provisions incorporated in the amendment which I have offered authorizing the Interstate Commerce Commission to have access to the property of the railways, authorizing them to require the production of books and papers, maps, profiles, contracts, and engineers' figures showing cost of construction, consider how difficult, not to say impossible, it would be to ascertain physical valuation under any such provision within a decade of time. They say in this report of 1908:

In addition to the large expense of retaining experts competent to make such investigations, neither the shippers nor their experts and agents, under existing statutes, have any right of access to the property of carriers, or to their records showing the cost of construction, and other necessary information. The carriers, on the other hand, being in possession of the information, or having access to the records and to the property from which the information may be compiled and gathered, can use it or not in any given case, as their interests may require. These considerations suggest the need of an official valuation of interstate carriers by the commission, or under other government authority which may be available in rate contests, not only to the shippers, who make the complaints and to the carriers who must defend their rates, but also to the commission, by which such issues must be decided.

A second consideration which leads the commission to urge upon Congress provision for an authoritative valuation of railway property is the importance which the question of capitalization has assumed in recent years. No one at the present time can say whether railways are undercapitalized or overcapitalized; or, should objection be made to that way of putting the question, no one can say, with the information in hand, which of the roads are undercapitalized and which are overcapitalized. A valuation adequate to the problem at hand should not stop with the simple statement of an amount; on the contrary, it should analyze the amount ascertained according to the sources from which the values accrued, and show the economic character as well as the industrial significance of the several forms of value. In no other way is it possible to arrive at an intelligent understanding of that complex situation suggested by the phrase "railway capitalization."

A third argument in support of the plan of an authoritative valuation of railway properties is found in the present unsatisfactory condition of railway balance sheets. The balance sheet is, perhaps, the most important of the statements that may be drawn from the accounts of corporations, for, if correctly drawn, it contains not only a classified statement of corporate assets and corporate liabilities, but it provides in the balance; that is to say, the "profit and loss," a quick and trustworthy measure of success that has attended the operation and management of the property. Every balance sheet begins with the "cost of property," against which is set a figure which purports to stand for the investment. This is no place to enter upon an extended criticism of the practice of American railways in the matter of their property accounts, nor is such a criticism necessary to the matter in hand. It is sufficient to refer to the well-known fact that no court, or commission, or accountant, or financial writer, would for a moment consider that the present balance-sheet statement purporting to give the cost of property suggests, even in a remote degree, a reliable measure either of money invested or of present value.

Thus at the first touch of critical analysis the balance sheets are incapable of rendering service which may rightly be demanded of them. One cure seems possible for such a situation and one only, and that is for the Government to make an authoritative valuation of railway property, and to provide that the amount so determined shall be entered upon the books of the carriers as the accepted measure of capital assets. Under no other condition can the commission complete in a satisfactory manner the formation of a standard system of accounts.

I pass over much to save time, but I find in these reports such an array of fact and argument as should move every member of this body to stand for an authoritative and thoroughgoing valuation of the railway property of the country.

I come now to what they said in 1909, nothing having been done by Congress, no bill having been reported out by the Committee on Interstate Commerce. I pause to repeat that at each session of each Congress since I have been a member of this body I have had pending in the Committee on Interstate Commerce a bill approved by the Interstate Commerce Commission in all its details, a bill upon which much thought and care in its drafting have been expended, and which finally appears in the pending amendment. And yet, Mr. President, this commission year after year made these appeals in vain.

In its report for 1909 the commission again returns to the subject of valuation, which for years it had been endeavoring to force upon the attention of the committees of Congress having control of this subject of legislation. It says:

There is, in our opinion, urgent need of the physical valuation of the interstate railways of this country. In the so-called Spokane case the engineers of the Northern Pacific and Great Northern Railways estimated the cost of reproducing these properties in the spring of 1907. In the trial of pending suits brought by the above companies to enjoin certain rates upon lumber which the commission had established from the Pacific coast to eastern destinations these same engineers have again estimated the cost of reproduction in 1909. The estimates of the latter year exceed the estimates of 1907 by over 25 per cent.

There is no way by which the Government can properly meet this testimony. Even assuming that the valuation of our railways would be of no assistance to this commission in establishing reasonable rates, it is still necessary, if those rates are to be successfully defended when attacked by the carriers, that some means be furnished by which, within reasonable limits, a value can be established which shall be binding upon the courts and the commission.

And yet the commission and those who appear to defend its orders are powerless to meet that proof. There was an increase of 25 per cent in the value of the property of this railroad, as sworn to in the short space of two years. This change was evidently made because it was deemed necessary to furnish proof to fit the case.

O Mr. President, how long shall this commission be left utterly helpless—lacking adequate equipment, wanting in authority and means to do the work which Congress has imposed upon it?

Now that we propose to enlarge, in some measure, the authority of the commission and place upon it added responsibilities are we not bound to arm it with an authoritative valuation of railroad property, enabling it to meet proof with proof in fixing reasonable rates and defending its orders in the court? Will Congress longer turn a deaf ear to the commission's appeal for railway valuation? Will the Senate fail to do its plain duty? Will it again vote down this vitally essential amendment?

Mr. President, let me say just these words in closing: The railroads of this country have never been dealt with unfairly. They have had the best of it all the while. Do you realize, Senators, what has been given to the railroad companies out of the public domain? I was about to say that the people have built the railroads of this country. They have built the railroads of this country by contributions that they have made out of the public domain, and in municipal and state bonds. One hundred and ninety-seven million acres of land have been donated to the railroads—enough to make five States as large as Pennsylvania—and then, on top and above all that, county bonds and state bonds in vast amounts have been added.

The United States issued to the Pacific roads federal bonds to the amount of $16,000 a mile to the base of the Rocky Mountains, and $32,000 to $48,000 per mile through the Rocky Mountains to the Pacific coast. This loan was secured to the Government by mortgage on the road, subject to a prior mortgage for a like amount per mile.

Thus the Federal Government loaned to the Union Pacific, Central Pacific, Western Pacific, and Kansas Pacific and two smaller companies about $65,000,000. This does not include the interest on bonds, which for years was paid by the Government and which was never fully repaid.

Several States made grants of many millions of dollars in the same manner.

The State of Missouri spent $32,000,000, of which it never recovered but $6,000,000.

Tennessee spent $30,000,000.

During the construction period half of the States increased their bonded debts for the aid of railways. Among the larger contributors were Illinois, Indiana, Missouri, Georgia, Tennessee, North Carolina, South Carolina, Virginia, and Louisiana.

Aid in county and municipal bonds: Counties and municipalities issued bonds in like manner. The census of 1870 shows that there were outstanding county bonds issued in the aid of railway construction in an amount not less than $185,000,000. In New York State alone, county and municipal aid amounted in 1870 to not less than $30,000,000. In Illinois in 1873 it was determined that there had been spent in like manner $20,000,000.

Mr. President, there is no reason for us to hesitate. You can not wrong the railroads in this matter. The courts will not permit it. They guard the property of the railroads at every step. All the decisions of the Supreme Court from 1870 down to the present time stand like a bulwark, like a breastwork, like a stone wall around the railroad property. It is not in the power of Congress, it is not in the power of any state legislature to do harm or wrong to a railroad company in the States or in the United States. I repeat, the courts will not permit it.

Here is a fair, plain proposition, one so simple that it seems to me no man can hesitate to accord it his support; and I appeal to the Senate to put on the records after all these years this rule of measuring reasonable rates and of ascertaining the true value of the property of railroads for that purpose sanctioned by the Supreme Court of the United States, urged by the Interstate Commerce Commission for a decade, and approved by the judgment and conscience of this country.

Mr. RAYNER. Mr. President, before the Senator takes his seat——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Maryland?

Mr. LA FOLLETTE. I do.

Mr. RAYNER. I merely want to ask the Senator a question. I think he has worded his amendment as well as he could have worded it under the decision of the Supreme Court of the United States. The case he refers to, I think, is the case of Smyth *v.* Ames (169 U. S.). Before the Senator takes his seat I want to submit a quotation from the language of the Supreme Court in that case, as follows:

> The basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public; and in order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration, and are to be given such weight as may be just and right in each case. What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience; and, on the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth.

I understand the Senator—and I think very properly—instead of taking the enumeration and specification of the Supreme Court, has used the general words:

> That the commission shall investigate and ascertain the value of the property.

He has emphasized that in two or three places in his amendment. In another place it provides:

> The value shall be ascertained by means of an inventory which shall list such property—

That is again repeated by the Senator—

> and such investigation shall show the value of the property used by every common carrier.

In other words, if there was any other property except property enumerated by the Supreme Court in this case, that property comes under the amendment of the Senator?

Mr. LA FOLLETTE. It does.

Mr. RAYNER. And not only that, but, as I understand the amendment—I have just looked at it—that is only a prima facie case; that does not prohibit the railroad from going into the circuit courts of the United States and alleging that the valuation is not a fair one, and therefore is confiscatory.

Mr. LA FOLLETTE. It would not be possible for Congress or any legislative body in seeking to value, through an arm of the legislature, the property of any railroad company, to exclude them from the right to go into the court and review the work of that legislative body.

Mr. RAYNER. They could still establish, Mr. President, that they possessed certain property which the Interstate Commerce Commission excluded, and therefore in only including part of their property the commission have practically confiscated the property in making rates too low.

Mr. BURTON. Mr. President, I merely desire to ask a question for information.

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Ohio?

Mr. LA FOLLETTE. I do.

Mr. BURTON. Does not this plan of valuation involve revaluations whenever there are changes in conditions?

Mr. LA FOLLETTE. It does, and the amendment——

Mr. BURTON. Suppose after two or three years the ties should be more expensive, or the stone in the abutments or the real estate in the terminals.

Mr. LA FOLLETTE. The amendment provides for a valuation from time to time covering extensions and improvements. It is necessary, if we are to follow the rule of the Supreme Court and are to deal fairly by these companies, that we should make and maintain a valuation that completely covers the property, and it is necessary, if we are to deal fairly by the public, that we should not leave it to the railroads to fix the value of their property at any sum which they choose to name.

It is the duty of this Government, Mr. President, to see that the people of this country receive reasonable rates, impartial rates, and adequate services. Those three things belong to the public at the hands of every transportation company that is given a franchise, and the Government owes it to the public to guarantee those three things—reasonable rates, impartial rates, and adequate services. On the other hand, it owes it to the railroad company to see that it has a fair return on the fair value of its property—no more and no less.

Mr. HEYBURN. Mr. President, it is not my intention at all to discuss the pending amendment, but I should like a little information in regard to it. I notice on page 3 of the amendment, it is provided:

> And all rules and regulations made by the commission for the purposes of administering the provisions of this section and section 20 of this act shall have the full force and effect of law.

That seems to be an attempt to enact into law something that is not yet written, something that can not yet be understood or known; and then, in connection with that provision, on page 5, I find the further provision that any violation of such law made vicariously shall subject the parties to a very heavy fine.

I do not think Congress should recognize the right of a board the personnel of which is not even known, the existence of which is not yet provided for so far as this amendment is concerned, to make rules and regulations that will have the force and effect of criminal statutes. It seems to me that we ought not to attempt a thing of that kind, and yet this provision is susceptible of no other construction.

Then my mind also inquires as to the number of men that would be required to perform this great work. It certainly would cost a vast sum of money. The board required would be a perpetual one, because the amendment provides that this work shall be kept up continuously, "posted up" as it were, taking into consideration the additional expenditures and the losses by the railroads. Great floods sometimes cost railroads millions of dollars. Therefore, these values would be continually changing.

Then, another thing: The laws of all of the States provide for the assessment and valuation of railroad property. I believe in our State it is now $14,000 a mile; at least it is not very far from that. What condition of affairs would confront us if the state assessment were fourteen or fifteen thousand dollars a mile and this board should find that the value of the property was $30,000 a mile? It seems to me that if you want the railroads to give you a fair basis upon which to fix their charges, you should say to them "whatever valuation you make under oath to the state assessors shall be the basis of the value upon which you may charge." There would probably be some consternation in the railroad offices, and their rates would appear very exorbitant in a State where the railroads were assessed on a basis of $15,000 a mile.

The railroads would undertake, under the provisions of this amendment, should it become a law, to have the valuation fixed very high, probably many times $15,000 a mile. Would the State readjust its assessment of the railroad property to the findings of this board? Would they be willing to take as a basis for their charges the valuation of the authorized state assessment or would they want the property assessed so high that the relation between the value of the property and the basis of the rate would make the rate very low? Those are pertinent inquiries. You are going to get up a conflict between the state boards of assessment and the Interstate Commerce Commission if you adopt an amendment like this; you are going to bring about a condition of turmoil and dissatisfaction that will be very far-reaching. If the railroads to-day were to pay local taxes—state, county, and so forth—upon the basis of the valuation contemplated through the medium of this board, the railroads would complain that it would compel them to double all their rates. Those questions are pertinent. You

can not get away from them. They go to the practical operation of such legislation.

I am in favor of the valuation of railroad property representing its full value. Under the laws of our State, and I presume of all other States, property must be assessed at its full value. There is no allowance made at all. We have a board of equalization that equalizes the taxes on the same class of property throughout the State. They fix the basis of taxation under the state laws. When this new board comes along it would fix it at a very much higher figure, because the railroads would want it fixed at a very high figure in order that they might find justification for charging high rates. You are laying the foundation for a very confused condition of affairs.

Believing, as I do, that railroad property and all other property should be assessed at its full valuation and that railroad property will stand a very much higher assessment than at present, and believing, as I do, that it would be very convenient and very useful to the Interstate Commerce Commission to know the true value of the railroads, I think that you can get the railroads to help you by raising the taxation for state and county purposes.

Mr. BAILEY. Mr. President, if I were employed to defend an owner of a property which a railroad sought to condemn for purposes of its right of way or its terminals, the first thing I would prepare myself to do in the trial of that case would be to prove the value of that property, and it seems to me the plainest dictate of common sense that when Congress imposes upon the Interstate Commerce Commission the duty of establishing charges for railroad services it ought to equip that body with every suitable means of ascertaining the value of the property with which those services are rendered.

The courts have said, and the courts ought always to say, that a railroad is entitled to a just compensation for every service which it renders to any man; but no court, commission, or jury can ever reach a fair conclusion as to what is a just compensation for that service unless they are first informed as to the value of the property with which the service is rendered. To my mind that is so elementary that I am not able to see how any Senator can resist the conclusion that if the railroads are overvalued and they seek to earn a return on that overvaluation, they are cheating the people. If the railroads are undervalued, and they are now only earning a fair return on their undervaluation, the people are cheating the railroads.

I am no more willing to see the people cheat the railroads than I am to see the railroads cheat the people; and I am constrained to believe that the side is practicing a fraud which resists a fair ascertainment of railroad values.

If the railroads of this country were wise they would be just, because, as surely as God lives and rules this universe, the only man who in the long run will get justice is the man who does justice. They can deny justice to the people so long until public indignation, aroused, may not stop with taking justice. It may do more, and the railroads could give the people of the United States no better earnest of their good faith and their intention to render fair service for fair pay than to invite the American Congress to adopt the very excellent amendment of the Senator from Wisconsin.

But whether they invite it or not, we ought to force a valuation of their property, so that when we charge the commission to ascertain and establish a just and reasonable rate, it will have before it the only reliable evidence by which to reach a conclusion.

I have heard it suggested, though I think nobody has ventured to suggest it in the debate, that the railroads object to their physical valuation because they fear they will be taxed, if the real, fair value of their property is ascertained, beyond what they are now paying. That objection will hardly appeal to any fair-minded man.

The railroads must not be permitted to undervalue their property when the tax assessor comes to their office and overvalue it when the shipper appears at the same place. If the Senate is now ready to vote, I would like to see the yeas and nays ordered on this amendment, and I would love to see every Senator in the body record himself as in favor of it.

The VICE-PRESIDENT. The Senator from Texas demands the yeas and nays on the question of agreeing to the amendment.

The yeas and nays were ordered.

Mr. ELKINS. Mr. President, I have a letter from the Interstate Commerce Commission on the subject of the valuation of railroads, written March 25, 1908, more than two years ago, in which they state that the expense incident to making the examination as to the valuation of the railroads is estimated at $3,000,000; time, three years.

I think it will require five years and cost $5,000,000, and I do not think the results would justify this vast expenditure. To get a reliable valuation would take five years, and I think by the time we got through one examination we would probably have to make another, because of the constant increase of the value of railroads.

Mr. BAILEY. Will the Senator permit me to ask him a question?

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Texas?

Mr. ELKINS. I do.

Mr. BAILEY. Does the Senator from West Virginia think it perfectly wise to order the Interstate Commerce Commission to do a thing and then to withhold from them the means of doing it intelligently.

Mr. ELKINS. Not at all, Mr. President. I do not see how the Senator got this in his mind.

Mr. BAILEY. Then, the Senator must know that $5,000,000 is small when compared with the railroad receipts and expenditures in this country every year, and great as it is $5,000,000 is a small expenditure to do justice to every man, woman, and child in the United States in a matter so important as this.

Mr. ELKINS. Senators have their own views on this question. For my part I do not think any good will result from the valuation. I fear if this valuation is made it will result in piling up the value mountain high. There are thousands of miles of track and terminals that can not be duplicated at all, scarcely, and surely not at any reasonable cost, especially the terminals in the great cities of the Union. They never can be duplicated. You will get this enormous valuation, and what can be done with it if it is to be made the basis of making rates? I do not think the cost of the railroads is the chief factor in determining rates. I know of railroads that cost $25,000 a mile that make more money than railroads costing $100,000 a mile. So, it is not the cost of the road that must be considered as controlling. The best basis is the earnings of the road, considered in connection or together with the cost and other factors.

Mr. BAILEY. Mr. President, will the Senator from West Virginia permit me?

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Texas?

Mr. ELKINS. Yes.

Mr. BAILEY. I have no right to speak for the Senator from Wisconsin, but he has not asked for the cost. He has asked for the value. They are very often widely different; and let me say to the Senator from West Virginia, while I am on my feet, that I do not contend that even the value is conclusive. It is only evidential, but it is so important as evidence in the determination of the question that it can not be safely dispensed with.

Mr. ELKINS. If the Senator will not interrupt me I will finish in a few moments. The amendment of the Senator from Wisconsin says:

> That the commission shall investigate and ascertain the value of the property—

The Supreme Court has laid down here a rule, a very broad one, for determining rates, and what the factors entering into it shall be. It is not limited to the cost or value of the property only, but other things. I think the amendment of the Senator from Wisconsin, if it is good in principle, is defective, because it does not set up and meet the rule laid down by the Supreme Court in the case of Smyth *v.* Ames (169 U. S.), in which the Supreme Court said:

> The basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public.

The Senator has not said the fair value in his amendment. Nevertheless, in that case the court declared that to ascertain the fair value, what—

> The original cost of construction, the amount expended in permanent improvements, the amount and market value of its stocks and bonds * * * are all matters for consideration and are to be given such weight as may be just and right in each case.

The amendment of the Senator from Wisconsin does not cover this rule laid down by the Supreme Court.

Mr. BAILEY. Mr. President——

Mr. ELKINS. I will not detain the Senate longer.

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Texas?

Mr. ELKINS. I have concluded.

Mr. BAILEY. The Senator from Wisconsin has drawn his amendment carefully. The extract from the opinion of the Supreme Court which the Senator from West Virginia has just read was merely a statement of the evidences by which to establish the value, and the Senator from Wisconsin has directed the commission to ascertain the value. The commission does

that in its own way, and whatever it does, as has been well said already, is still subject to judicial scrutiny.

Mr. BORAH. Mr. President, only a word before the amendment goes to a vote. The quotation from Smyth *v.* Ames has been read several times, but for the purpose of submitting pointedly a question to this body before the vote I want to read it again. The court holds that—

> The basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public.

And again it says—

> What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience.

In other words, as was suggested by the Senator from Texas in an address before the New York Bar Association, the rule which will finally be established, perhaps, is a reasonable compensation for the services performed. But all these other facts are essential and indispensable to arrive at a reasonable compensation for the services performed. In 1887 we impaneled a jury to determine a question of value of services, and we have required of them from time to time since then that they report upon it, and we have never introduced before them any evidence upon which they could pass judgment or determine what was the value of the services.

At the present time, under the law as interpreted by the Supreme Court, there is no possible means by which the Interstate Commerce Commission can arrive at a just and reasonable rate. There is no method or means by which the Interstate Commerce Commission can successfully defend an order when it is claimed that it establishes a rate which is unreasonable or unjust or confiscatory.

There is not before the examining board or the quasi court anything upon which they can base an action in the way of evidence leading to a final judgment or conclusion as to the reasonableness of the services to be performed.

In other words, Mr. President, by what method or means does the Interstate Commerce Commission at this time fix rates? By what rule? Upon what showing? Upon the value of the property? They have it not. Upon its capitalization? Upon what kind of evidence? Upon no evidence that has ever been recognized by a court as competent evidence for the determination of such a matter. The basis of that, the beginning of it, is the valuation of the property which is being used for the public.

Mr. STONE. I suppose the Senator from West Virginia desires to bring the pending amendment to a vote to-night?

Mr. ELKINS. It has been my purpose all along to have a vote on the amendment before adjournment.

Mr. STONE addressed the Senate. After having spoken for ten minutes,

Mr. ELKINS. I move that when the Senate adjourns to-day it adjourn to meet to-morrow morning at 11 o'clock.

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from West Virginia?

Mr. STONE. I do not yield the floor.

Mr. ELKINS. No; I make the motion.

The VICE-PRESIDENT. The Senator from West Virginia moves that when the Senate adjourns to-day, it be to meet at 11 o'clock to-morrow.

Mr. RAYNER. May I ask the Senator from West Virginia whether he intends to have a vote on the pending amendment this afternoon?

The VICE-PRESIDENT. The question is on the motion of the Senator from West Virginia. [Putting the question.] The ayes seem to have it.

Mr. LA FOLLETTE. I ask for a division.

Mr. STONE. I do not yield the floor for any such purpose.

The VICE-PRESIDENT. The Chair understood that the Senator did yield.

Mr. STONE. I said I did not.

The VICE-PRESIDENT. The Chair misunderstood the Senator, and the Chair apologizes. The motion, then, is not pending. The Chair thought the Senator from Missouri did yield.

Mr. STONE. The Senator from West Virginia suggested to me to have an adjournment. I said I had no objection to that if it could be understood that I could proceed to-morrow morning, but I do not surrender the floor.

The VICE-PRESIDENT. The Chair understood that the Senator yielded for the purpose of having the motion put.

Mr. STONE. I will stop here to say, Mr. President, that I am willing, if it does not deprive me of my right to the floor, to have the motion of the Senator from West Virginia submitted to the Senate to adjourn until to-morrow. I do not wish to inconvenience Senators.

Mr. BEVERIDGE. That was not his motion. His motion was that when the Senate does adjourn it shall adjourn until 11 o'clock to-morrow. I understood that the honorable the chairman of the Foreign Relations Committee desired to move to proceed to the consideration of executive business. The Senator misunderstood the motion of the Senator from West Virginia as I heard it. It was not to adjourn, but that when the Senate adjourns it shall adjourn to meet to-morrow at 11.

Mr. ELKINS. That was my motion.

Mr. BEVERIDGE. That was the Senator's motion. It was not a motion to adjourn.

Mr. STONE. If the Senator does not intend to follow that with a motion to adjourn, I do not care——

Mr. ELKINS. I do not.

The VICE-PRESIDENT. Does the Senator from Missouri yield for the purpose of having that motion made?

Mr. STONE. I do not yield for that motion, if the Senator says he does not intend to follow it with a motion to adjourn.

Mr. ELKINS. No; I will say to the Senator I will not follow it with a motion to adjourn.

The VICE-PRESIDENT. The Senator from Missouri has the floor.

Mr. GALLINGER. Will the Senator have any objection to the motion made by the Senator from West Virginia that when we adjourn we shall adjourn to meet at 11 o'clock, if it is to be immediately followed by a motion by the Senator from Illinois to go into executive session?

Mr. STONE. I have no objection to it if I can have the floor to-morrow morning.

Mr. BEVERIDGE. Of course the Senator will have the floor to-morrow.

Mr. GALLINGER. Unquestionably the Senator will be entitled to the floor.

Mr. STONE. Personally, consulting my own convenience, I would rather the Senate would adjourn until 11 o'clock to-morrow.

Mr. ELKINS. Then in view of that I move that when the Senate——

The VICE-PRESIDENT. The Senator from Missouri has not yet yielded for that purpose. A moment ago he declined to yield for that purpose.

Mr. STONE. On the faith of what has been said, I will yield to the Senator to make that motion.

Mr. ELKINS. Then I move that when the Senate adjourns it adjourn to meet to-morrow morning at 11 o'clock.

The motion was agreed to, there being on a division—ayes 32, noes 16.

Mr. CULLOM. Mr. President——

The VICE-PRESIDENT. The Senator from Missouri still has the floor. He yielded for the purpose of having the motion made which has just been agreed to.

Mr. CULLOM. Will the Senator from Missouri yield to me?

Mr. STONE. For what purpose?

Mr. CULLOM. I am not disposed to tell the Senator.

Mr. STONE. I will not yield the floor.

Mr. CULLOM. The Senator does not yield the floor. I simply wanted to make a motion in pursuance of what has been talked about here for an hour.

Mr. STONE. I have no objection to the Senator moving an executive session.

Mr. CULLOM. I will then move that the Senate proceed to the consideration of executive business.

The VICE-PRESIDENT. Does the Senator yield for that purpose?

Mr. STONE. I do.

[For Mr. STONE's entire speech see Senate proceedings of Wednesday, June 1, 1910.]

Mr. NELSON. I wish the Senator from Illinois would yield to me to present a conference report, that it may be printed as a document and lie on the table. (S. Doc. No. 600.)

Mr. CULLOM. If I can do so, I will be glad to yield.

The VICE-PRESIDENT. If the Senator from Missouri assents.

Mr. STONE. I do.

The VICE-PRESIDENT. The Senator from Missouri assents.

RIVER AND HARBOR BILL.

Mr. NELSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R.

20686) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 9, 20, 22, 25, 26, 54, 68, 70, 71, 81, 103, 127, 141, 173, 177, 186, 192, 202, 203.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 16, 17, 21, 24, 27, 28, 29, 30, 33, 34, 35, 36, 38, 39, 40, 42, 45, 46, 47, 48, 49, 50, 51, 52, 53, 55, 56, 58, 63, 64, 66, 69, 72, 73, 74, 75, 76, 77, 78, 79, 80, 85, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 104, 105, 106, 107, 108, 110, 111, 114, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 128, 129, 132, 133, 135, 137, 138, 140, 142, 143, 144, 145, 146, 147, 149, 150, 151, 153, 154, 155, 157, 158, 162, 163, 164, 165, 166, 167, 170, 171, 172, 174, 176, 178, 179, 180, 181, 182, 183, 184, 185, 187, 188, 189, 190, 191, 193, 194, 195, 196, 197, 198, 199, and agree to the same.

Amendments numbered 12, 13, and 14: That the House recede from its disagreement to the amendments of the Senate numbered 12, 13, 14, and agree to the same with an amendment as follows: In lieu of the amended paragraph insert the following:

"Improving Providence River and Harbor, Rhode Island: Continuing improvement in accordance with the report submitted in House Document Numbered Six hundred and six, Sixty-first Congress, second session, twenty-five thousand dollars: *Provided*, That the Secretary of War may enter into a contract or contracts for such materials and work as may be necessary to complete the said project, to be paid for as appropriations may from time to time be made by law, not to exceed in the aggregate four hundred and thirty-four thousand dollars, exclusive of the amounts herein and heretofore appropriated: *Provided further*, That no part of this amount shall be expended until the Secretary of War shall have received satisfactory assurances that the city of Providence, or other local agency, will expend on the improvement of the harbor front, in accordance with said document above referred to, a sum equal to the amount herein appropriated and authorized."

And the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: After the word "Connecticut" in the language proposed insert a colon and the words "Completing improvement," and in lieu of the sum proposed insert "ninety thousand dollars;" and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment as follows: In lieu of the paragraph proposed insert the following:

"Improving Hudson River, New York: For maintenance and continuing improvement in accordance with the report submitted in House Document Numbered Seven hundred and nineteen, Sixty-first Congress, second session, and with a view to completing said improvement within a period of four years, one million three hundred and fifty thousand dollars: *Provided*, That the expenditure of the amounts herein and hereafter appropriated for said improvement shall be subject to the conditions set forth in said document: *Provided further*, That the general plan for the improvement presented in said document shall be subject to such modification as to the location of the dam and in matters of detail as may be recommended by the Chief of Engineers and approved by the Secretary of War."

And the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: At the end of the language proposed strike out the period and insert a comma and the words: "exclusive of the amount herein appropriated;" and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment as follows: After the words "New Jersey" in the first line of the proposed amendment strike out the comma and insert a colon and the words "Completing improvement." And at the end of the language proposed strike out the period and insert a colon and the words "*Provided further*, That all rights of way necessary for this improvement shall be furnished free of cost to the United States; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment as follows: Strike out the House provision as proposed, and in lieu of the language proposed insert the following:

"Improving Nanticoke River, Delaware and Maryland: Completing improvement in accordance with the report submitted in House Document Numbered Six hundred and seventy-four, Sixty-first Congress, second session, and improving Northwest Fork of Nanticoke River (Marshyhope Creek), Maryland, in accordance with plan numbered one as recommended in report submitted in House Document Numbered Eight hundred and sixty-nine, Sixtieth Congress, first session, twelve thousand nine hundred and sixty dollars."

And the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows: Strike out all of the amended paragraph after the word "maintenance" and insert in lieu of the same "two hundred and thirty thousand dollars;" and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following:

"Improving inland waterway from Norfolk, Va., to Beaufort Inlet, N. C.: The Secretary of War is hereby authorized to enter into negotiations for the purchase, as a part of said inland waterway, of the Albemarle and Chesapeake Canal, or the Dismal Swamp Canal, together with all property, rights of property, and franchises appertaining thereto; and he is further authorized, if in his judgment the price is reasonable and satisfactory, to make a contract for the purchase of either of said canals and appurtenances, subject to future ratification and appropriation by Congress: *Provided*, That no contract for the purchase of either of said canals shall be made unless such purchase, after full hearing of all parties in interest, is recommended in the survey report to be hereafter submitted in compliance with the directions of Congress in the river and harbor act approved March third, nineteen hundred and nine: *Provided further*, That said report shall include estimates of the total cost of the completion of each of said canals, including also the purchase price of each, with the advantages of each for commerce."

And the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment as follows: At the end of the language proposed strike out the period and insert a colon and the following words: " : *Provided further*, That said local interests shall provide at least one public wharf of adequate facilities the use of which shall be open to all on equal terms;" and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment as follows: In lieu of the words "Bogue Sound contiguous to" in the first line of the proposed language insert the words "Harbor at;" and in the ninth and tenth lines of the amendment strike out the words "material excavated from channel between said bulkhead and the shore" and in lieu thereof insert the following: "between said bulkhead and the shore the material excavated from the channel;" and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment as follows: Strike out the first three lines of the proposed amendment and the words "Completing improvement," in the fourth line thereof, and insert in lieu thereof the following: "Improving harbor at Beaufort, North Carolina: Completing improvement by the construction of a channel from the inland waterway between Norfolk and Beaufort Inlet to the town of Beaufort, by way of Gallants Channel;" and the Senate agree to the same.

Amendment numbered 57: That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment as follows: After the word "Mexico" in the second line of the language proposed strike out the comma and insert a colon and the words "Completing improvement and for maintenance;" and the Senate agree to the same.

Amendments numbered 59 and 60: That the House recede from its disagreement to the amendments of the Senate numbered 59 and 60, and agree to the same with an amendment as follows: In lieu of the amended paragraph insert the following:

"Improving channel from Galveston Harbor to Texas City, Tex.: For maintenance and for dredging within the limits recommended in the report submitted in House Document Num-

dered Three hundred and twenty-eight, Sixty-first Congress, second session, one hundred thousand dollars."

And the Senate agree to the same.

Amendments numbered 61 and 62: That the House recede from its disagreement to the amendments of the Senate numbered 61 and 62, and agree to the same with an amendment as follows: In lieu of the language proposed to be inserted insert the following:

"The Secretary of War shall appoint a board of engineers to reconsider the project submitted in House Document Numbered Eight hundred and thirty-six, Sixty-first Congress, second session, for the improvement of the Sabine-Neches Canal from the Port Arthur Ship Canal to the mouth of the Sabine River, the Neches River up to the town of Beaumont, and the Sabine River up to the town of Orange, to a navigable depth of twenty-five feet, including a guard lock, and report to Congress on or before December first, nineteen hundred and ten, upon the dimensions and cost of the minimum improvement of the locality which will adequately serve the interests of commerce and the amounts which the United States and the local interests, respectively, should contribute toward the cost of such adequate improvement, and toward its maintenance after completion. In view of the fact that more extensive cooperation on the part of the local interests in construction and for maintenance is now proposed than was considered in the report heretofore submitted, the board is especially directed to confer with the representatives of such local interests and to submit with its report, for the consideration of Congress, any proposition or propositions for local cooperation that may be presented: *Provided*, That the expenses of the board herein authorized shall be paid from the appropriation for examinations, surveys, and contingencies of rivers and harbors."

And the Senate agree to the same.

Amendment numbered 65: That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert, on page 47, between lines 2 and 3 and before amendment numbered 64, the following: "Improving Ouachita River, Arkansas and Louisiana, by removing snags, leaning trees, and other obstructions, between Camden and Arkadelphia, in the State of Arkansas, ten thousand dollars, or so much thereof as may be necessary;" and the Senate agree to the same.

Amendment numbered 67: That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment as follows: Strike out the language proposed to be inserted and also the word "ten" immediately following and insert in lieu thereof the word "fifteen;" and the Senate agree to the same.

Amendments numbered 82 and 83: That the House recede from its disagreement to the amendments of the Senate numbered 82 and 83, and agree to the same with an amendment as follows: In lieu of the amended paragraph insert the following:

"Improving harbor at Manistee, Mich.: For maintenance and continuing improvement in accordance with the smaller project submitted in House Document Numbered Seven hundred and five, Sixty-first Congress, second session, thirty-three thousand dollars."

And the Senate agree to the same.

Amendment numbered 84: That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment as follows: Strike out the word "submitted," in the fifth line of the proposed amendment, and in lieu thereof insert the following: "of the Board of Engineers for Rivers and Harbors, dated February ninth, nineteen hundred and ten, and printed;" and the Senate agree to the same.

Amendment numbered 86: That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment as follows: In the first line of the language proposed strike out the words "Bay and;" and after the word "River," in the same line, insert the word "Michigan," and omit the word "Michigan" in the second line of the language proposed; and the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment as follows: In lieu of the words "De Pere Harbor" insert the words "harbor at Depere;" and the Senate agree to the same.

Amendments numbered 88 and 89: That the House recede from its disagreement to the amendments of the Senate numbered 88 and 89, and agree to the same with an amendment as follows: In lieu of the amended paragraph insert the following:

"Improving harbor at Port Washington, Wis.: Completing improvement in accordance with the report submitted in House Document Numbered Three hundred and six, Sixty-first Congress, second session, thirty thousand dollars."

And the Senate agree to the same.

Amendment numbered 102: That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following:

"Improving Missouri River: For improvement and maintenance from Kansas City to Fort Benton, three hundred thousand dollars, of which amount one hundred and fifty thousand dollars, or so much thereof as may be necessary, may be expended between Le Beau and Fort Benton."

And the Senate agree to the same.

Amendment numbered 109: That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following:

"The Secretary of War is authorized, in his discretion, to sell the lands and other property acquired for the construction of the Yuba River settling basin, California, and to modify the project of the California Débris Commission for improving Sacramento and Feather rivers accordingly; the proceeds of the sale to be applied to such modified project."

And the Senate agree to the same.

Amendment numbered 112: That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows: Strike out all of the proposed paragraph after the word "aggregate" in the tenth line thereof, and insert in lieu of the same the following: "One hundred and sixty-five thousand five hundred dollars, exclusive of the amount herein appropriated: *Provided further*, That before beginning said work or making said contract or contracts the Secretary of War shall be satisfied by deposit or otherwise that the port of Siuslaw or other agency shall provide for the accomplishment of said project the additional sum of two hundred and fifteen thousand five hundred dollars, which said sum shall be expended by the Secretary of War in the prosecution of said work and for its maintenance in the same manner and in equal amount as the sum herein appropriated and authorized to be appropriated from the Treasury of the United States: *And provided further*, That the amount to be furnished by the port of Siuslaw or other agency may be reduced by such amounts as said port may have expended in such construction of the south jetty as can be utilized by the engineer officer in charge of the work in the execution of the plans adopted."

And the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: After the word "War," in the fifth line of the proposed paragraph, insert the words "in accordance with the report submitted in House Document Numbered Two hundred and two, Fifty-sixth Congress, first session;" and the Senate agree to the same.

Amendment numbered 115: That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "up to Pittsburg Landing, Oregon, in accordance with the present project and the report submitted in House Document Numbered Four hundred and eleven, Fifty-fifth Congress, second session, twenty-five thousand dollars;" and the Senate agree to the same.

Amendment numbered 116: That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment as follows: Strike out all of the proposed paragraph, after the word "Engineers," and insert in lieu thereof the following: "for rivers and harbors dated March first, nineteen hundred and ten, and printed in Rivers and Harbors Committee Document Numbered Twenty-nine, Sixty-first Congress, second session, seventy-five thousand dollars;" and the Senate agree to the same.

Amendment numbered 130: That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following:

"ALABAMA AND FLORIDA.

"Escambia and Conecuh rivers up to Brewton."

And the Senate agree to the same.

Amendment numbered 131: That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment as follows: In lieu

of the word "De Valls" insert the word "Devall;" and the Senate agree to the same.

Amendment numbered 134: That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following:

"New Haven Harbor, with a view to improving the channel by way of Oyster Point to the bridge of the New York, New Haven and Hartford Railway Company on West River."

And the Senate agree to the same.

Amendment numbered 136: That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following:

"St. Joseph Bay, with a view to securing increased depth at the entrance thereto."

And the Senate agree to the same.

Amendment numbered 139: That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Jupiter inlet," "Gilberts bar;" and the Senate agree to the same.

Amendment numbered 148: That the House recede from its disagreement to the amendment of the Senate numbered 148, and agree to the same with an amendment as follows: In lieu of the language proposed insert "New Meadows River;" and the Senate agree to the same.

Amendment numbered 152: That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment as follows: In lieu of the word "Annamessex" in the language proposed insert the word "Annemessex;" and the Senate agree to the same.

Amendment numbered 156: That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment as follows: Strike out the word "Synepuxent" and insert in lieu the word "Sinepuxent;" and the Senate agree to the same.

Amendment numbered 159: That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment as follows: After the word "Bridge," in the language proposed, strike out the word "Massachusetts;" and the Senate agree to the same.

Amendment numbered 160: That the House recede from its disagreement to the amendment of the Senate numbered 160, and agree to the same with an amendment as follows: Strike out all the language proposed after the word "Harbor;" and the Senate agree to the same.

Amendment numbered 161: That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment as follows: After the language proposed to be inserted insert the following paragraph:

"Arcadia Harbor."

And the Senate agree to the same.

Amendment numbered 168: That the House recede from its disagreement to the amendment of the Senate numbered 168, and agree to the same with an amendment as follows: Strike out the words "at mean low water at Old Bridge;" and the Senate agree to the same.

Amendment numbered 169: That the House recede from its disagreement to the amendment of the Senate numbered 169, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following:

"Delaware River, with a view to connecting the landing at Bordentown with the main channel.

"Raritan River, including a widening of the channel from the mill or Martins Creek to Martins Dock on the north side."

And the Senate agree to the same.

Amendment numbered 175: That the House recede from its disagreement to the amendment of the Senate numbered 175, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following:

"Cape Lookout Harbor, with a view to determining its availability and adaptability as a commercial harbor."

And the Senate agree to the same.

Amendment numbered 200: That the House recede from its disagreement to the amendment of the Senate numbered 200, and agree to the same with an amendment as follows: In the second line of the amendment, after the word "Creek," strike out the words "West Virginia;" and the Senate agree to the same.

Amendment numbered 201: That the House recede from its disagreement to the amendment of the Senate numbered 201, and agree to the same with an amendment as follows: Strike out the section inserted by the House, as proposed by the amendment, and strike out also the entire section as proposed by the Senate amendment, and renumber the succeeding sections accordingly; and the Senate agree to the same.

KNUTE NELSON,
S. B. ELKINS,
THOMAS S. MARTIN,
Managers on the part of the Senate.

D. S. ALEXANDER,
GEO. P. LAWRENCE,
S. M. SPARKMAN,
Managers on the part of the House.

The VICE-PRESIDENT. The report will be printed and lie on the table.

EXECUTIVE SESSION.

Mr. CULLOM. I renew my motion.

The VICE-PRESIDENT. The Senator from Illinois moves that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened, and (at 5 o'clock and 27 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, June 1, 1910, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate May 31, 1910.

MINISTER TO MOROCCO.

Fred W. Carpenter, of California, envoy extraordinary and minister plenipotentiary to Morocco, vice H. Percival Dodge.

UNITED STATES ATTORNEY.

Charles C. Houpt, of Minnesota, to be United States attorney for the district of Minnesota. (A reappointment, his term expiring June 2, 1910.)

UNITED STATES DISTRICT JUDGE.

Gordon Russell, of Texas, to be United States district judge for the eastern district of Texas, vice David E. Bryant, deceased.

RECEIVER OF PUBLIC MONEYS.

William E. Wallace, of Colorado, to be receiver of public moneys at Glenwood Springs, Colo., his term having expired. (Reappointment.)

UNITED STATES MARSHAL.

Dupont B. Lyon, of Texas, to be United States marshal for the eastern district of Texas, vice Andrew J. Houston, whose term expired May 25, 1910.

APPOINTMENTS IN THE ARMY.

Maj. Cornélis De W. Willcox, Coast Artillery Corps, to be professor of modern languages at the United States Military Academy, to take effect September 18, 1910, vice Prof. Edward E. Wood, to be retired from active service on September 17, 1910.

MEDICAL RESERVE CORPS.

Henry Clarke Coe, of New York, to be first lieutenant in the Medical Reserve Corps, with rank from May 26, 1910.

COAST ARTILLERY CORPS.

To be second lieutenants, with rank from May 26, 1910.

Belton O'Neall Kennedy, of Pennsylvania.
Cary Robinson Wilson, of Virginia.
John Herman Hood, of the District of Columbia.
Richard Stearns Dodson, of Virginia.
Carl Uno North, of Michigan.
Christopher Dudley Peirce, of North Carolina.
Philip Milnor Ljungstedt, of Maryland.
Joseph Fredrick Cottrell, of Pennsylvania.
Edward Lathrop Dyer, of Massachusetts.
Wallace Loring Clay, of New York.
Walter Lucas Clark, of Vermont.
Fredrick Eustis Kingman, of Georgia.
Simon Willard Sperry, of California.
Daniel Nanny Swan, jr., of Utah.
Charles M. Steese, of Pennsylvania.
Harry Wylie Stovall, of Georgia.
Fenelon Cannon, of Texas.
Richard Ferguson Cox, of California.
Rex Chandler, of Indiana.
John Piersol McCaskey, jr., at large.
Edward Stuart Harrison, of Virginia.

PROMOTIONS IN THE NAVY.

Lieut. Clarence S. Kempff to be a lieutenant-commander in the navy from the 16th day of January, 1910, vice Lieut. Commander James H. Reid, retired.

Lieut. Wilbur G. Briggs to be a lieutenant-commander in the navy from the 4th day of May, 1910, vice Lieut. Commander Henry A. Wiley, promoted.

The following-named lieutenants (junior grade) to be lieutenants in the navy from the 31st day of January, 1910, to fill vacancies existing in that grade on that date:

Royal E. Ingersoll,
Louis C. Farley,
Robert L. Irvine,
Turner F. Caldwell,
Walter B. Woodson, and
Gerald Howze.

The following-named ensigns to be lieutenants (junior grade) in the navy from the 31st day of January, 1910, upon the completion of three years' service in present grade:

Royal E. Ingersoll,
Louis C. Farley,
Robert L. Irvine,
Turner F. Caldwell,
Walter B. Woodson,
Gerald Howze,
John M. Poole, third,
Anthony J. James,
Hugh Brown,
Vaughn K. Coman, and
William P. Gaddis.

Lieut. (Junior Grade) Lucian Minor to be a lieutenant in the navy from the 4th day of May, 1910, vice Lieut. Wilbur G. Briggs, promoted.

Boatswains Frederick Meyer and Charles F. Pime to be chief boatswains in the navy from the 16th day of May, 1910, upon the completion of six years' service in present grade.

Boatswain Peter Emery to be a chief boatswain in the navy from the 30th day of July, 1909, upon the completion of six years' service in present grade.

Carpenters Walter R. Donaldson and Arno W. Jones to be chief carpenters in the navy from the 28th day of December, 1909, upon the completion of six years' service in present grade.

Machinist George Crofton to be a chief machinist in the navy from the 27th day of May, 1910, upon the completion of six years' service in present grade.

POSTMASTERS.

ALABAMA.

Joseph P. Dimmick to be postmaster at Montgomery, Ala., in place of Joseph P. Dimmick. Incumbent's commission expires June 1, 1910.

ARIZONA.

Albert L. Smith to be postmaster at Prescott, Ariz., in place of Albert L. Smith. Incumbent's commission expires June 22, 1910.

CALIFORNIA.

Robert G. Benson to be postmaster at Oakdale, Cal., in place of Robert G. Benson. Incumbent's commission expires May 31, 1910.

Thomas M. Wright to be postmaster at Watsonville, Cal., in place of Thomas M. Wright. Incumbent's commission expires June 18, 1910.

CONNECTICUT.

Charles K. Bailey to be postmaster at Bethel, Conn., in place of Charles K. Bailey. Incumbent's commission expired May 24, 1910.

Henry Dryhurst to be postmaster at Meriden, Conn., in place of Henry Dryhurst. Incumbent's commission expires June 22, 1910.

ILLINOIS.

Holly C. Clark to be postmaster at Mount Morris, Ill., in place of Holly C. Clark. Incumbent's commission expires June 22, 1910.

George W. Dicus to be postmaster at Rochelle, Ill., in place of George W. Dicus. Incumbent's commission expires June 22, 1910.

Edward Grimm to be postmaster at Galena, Ill., in place of Edward Grimm. Incumbent's commission expires June 22, 1910.

James H. Lincoln to be postmaster at Franklin Grove, Ill., in place of James H. Lincoln. Incumbent's commission expires June 22, 1910.

James R. Morgan to be postmaster at Maroa, Ill., in place of James R. Morgan. Incumbent's commission expires June 22, 1910.

Thomas W. Price to be postmaster at Astoria, Ill., in place of Thomas W. Price. Incumbent's commission expires June 18, 1910.

Joel S. Ray to be postmaster at Arcola, Ill., in place of Joel S. Ray. Incumbent's commission expires June 22, 1910.

William H. Shaw to be postmaster at Canton, Ill., in place of William H. Shaw. Incumbent's commission expires June 18, 1910.

Sewell P. Wood to be postmaster at Farmington, Ill., in place of Sewell P. Wood. Incumbent's commission expires June 18, 1910.

INDIANA.

James M. Freeman to be postmaster at Liberty, Ind., in place of Bennett M. Grove. Incumbent's commission expired April 16, 1910.

Edgar M. Haas to be postmaster at Richmond, Ind., in place of J. Albert Spekenhier. Incumbent's commission expired May 9, 1910.

Samuel E. De Haven to be postmaster at Connersville, Ind., in place of Miles K. Moffett. Incumbent's commission expired April 3, 1910.

Charles C. Lyons to be postmaster at Fairmount, Ind., in place of Charles C. Lyons. Incumbent's commission expired May 24, 1910.

E. E. Parker to be postmaster at Culver, Ind., in place of B. W. Scott Wiseman. Incumbent's commission expired January 18, 1910.

KANSAS.

Frank W. Bevington to be postmaster at Jewell, Kans., in place of Frank W. Bevington. Incumbent's commission expires June 22, 1910.

Lavelle H. Boyd to be postmaster at Russell, Kans., in place of Lavelle H. Boyd. Incumbent's commission expired May 9, 1910.

Theodore Griffith to be postmaster at Great Bend, Kans., in place of Theodore Griffith. Incumbent's commission expires June 22, 1910.

Samuel C. Labaugh to be postmaster at Harper, Kans., in place of Samuel C. Labaugh. Incumbent's commission expires June 22, 1910.

Richard Waring to be postmaster at Abilene, Kans., in place of Richard Waring. Incumbent's commission expired May 24, 1910.

MAINE.

Perham S. Heald to be postmaster at Waterville, Me., in place of Perham S. Heald. Incumbent's commission expires June 22, 1910.

MICHIGAN.

George W. Jones to be postmaster at Imlay City, Mich., in place of Willard Harwood. Incumbent's commission expired February 27, 1910.

MINNESOTA.

Arthur P. Cook to be postmaster at Duluth, Minn., in place of Guy A. Eaton. Incumbent's commission expired May 29, 1910.

Theodore P. Fagre to be postmaster at Blooming Prairie, Minn., in place of Theodore P. Fagre. Incumbent's commission expires June 22, 1910.

John S. Stensond to be postmaster at Canby, Minn., in place of Ida Erickson. Incumbent's commission expired January 23, 1910.

MISSOURI.

Alexander F. Karbe to be postmaster at Neosho, Mo., in place of Alexander F. Karbe. Incumbent's commission expires June 22, 1910.

NEBRASKA.

James M. Beaver to be postmaster at Scribner, Nebr., in place of James M. Beaver. Incumbent's commission expires June 22, 1910.

Thomas W. Cole to be postmaster at Nelson, Nebr., in place of Thomas W. Cole. Incumbent's commission expires June 8, 1910.

NEW HAMPSHIRE.

George H. Kelley to be postmaster at Lebanon, N. H., in place of Harry M. Cheney, resigned.

NEW YORK.

John H. Broad to be postmaster at Morrisville, N. Y., in place of Joseph D. Senn. Incumbent's commission expired May 28, 1910.

M. Emma Ferris to be postmaster at Lima, N. Y., in place of George T. Salmon. Incumbent's commission expires June 15, 1910.

Charles Herbert Rich to be postmaster at Cattaraugus, N. Y., in place of Charles Herbert Rich. Incumbent's commission expires June 18, 1910.

NORTH CAROLINA.

William A. Howell to be postmaster at Davidson, N. C., in place of Erwin Q. Houston. Incumbent's commission expired January 11, 1909.

OHIO.

Le Roy C. Benedict to be postmaster at Mansfield, Ohio, in place of William S. Capeller. Incumbent's commission expired March 9, 1910.

William Bowen to be postmaster at Louisville, Ohio, in place of William Bowen. Incumbent's commission expired January 25, 1910.

George H. Clark to be postmaster at Canton, Ohio, in place of George H. Clark. Incumbent's commission expired April 24, 1910.

Ed. S. Conklin to be postmaster at Lebanon, Ohio, in place of William H. Antram, resigned.

Albert W. McCune to be postmaster at Bradford, Ohio, in place of Albert W. McCune. Incumbent's commission expires June 7, 1910.

Gilbert D. McIntyre to be postmaster at Orrville, Ohio, in place of Gilbert D. McIntyre. Incumbent's commission expired May 8, 1910.

David C. Mahon to be postmaster at Dennison, Ohio, in place of William A. Pittenger. Incumbent's commission expired March 3, 1907.

Robert L. Moore to be postmaster at Cuyahoga Falls, Ohio, in place of Robert L. Moore. Incumbent's commission expires June 15, 1910.

Edwin Morgan to be postmaster at Alliance, Ohio, in place of Edwin Morgan. Incumbent's commission expired February 5, 1910.

John J. Roderick to be postmaster at Canal Dover, Ohio, in place of John J. Roderick. Incumbent's commission expired March 4, 1908.

Charles W. Searls to be postmaster at Madison, Ohio, in place of Charles W. Searls. Incumbent's commission expires June 15, 1910.

Onesimus P. Shaffer to be postmaster at Youngstown, Ohio, in place of Onesimus P. Shaffer. Incumbent's commission expired January 25, 1910.

Samuel S. Stewart to be postmaster at Columbiana, Ohio, in place of Samuel S. Stewart. Incumbent's commission expired February 20, 1910.

Frank F. Talley to be postmaster at New Richmond, Ohio, in place of Charles W. Dawson. Incumbent's commission expired March 17, 1909.

William M. Torrence to be postmaster at Belle Center, Ohio, in place of Edwin F. Ellis. Incumbent's commission expired February 20, 1910.

Henry D. Weaver to be postmaster at Leetonia, Ohio, in place of Henry D. Weaver. Incumbent's commission expired January 23, 1910.

George W. White to be postmaster at Uhrichsville, Ohio, in place of William H. Stoutt. Incumbent's commission expired March 3, 1907.

OKLAHOMA.

Sam L. Darrah to be postmaster at Custer, Okla., in place of Sam L. Darrah. Incumbent's commission expires June 11, 1910.

OREGON.

James T. Brown to be postmaster at Pendleton, Oreg., in place of James T. Brown. Incumbent's commission expires June 18, 1910.

PENNSYLVANIA.

Sanford Z. Crumrine to be postmaster at Scenery Hill, Pa., in place of George E. Renshaw, resigned.

William Harrison Moore to be postmaster at South Fork, Pa., in place of Joseph S. Paul, deceased.

Harry G. Smith to be postmaster at West Chester, Pa., in place of Harry G. Smith. Incumbent's commission expires June 18, 1910.

TENNESSEE.

Gale Armstrong to be postmaster at Rogersville, Tenn., in place of Gale Armstrong. Incumbent's commission expired May 7, 1910.

UTAH.

Peter Martin to be postmaster at Park City, Utah, in place of Peter Martin. Incumbent's commission expires June 22, 1910.

VIRGINIA.

J. N. Coffman to be postmaster at Edinburg, Va. Office became presidential January 1, 1910.

Walter S. Hunter to be postmaster at Basic City, Va. Office became presidential April 1, 1910.

WISCONSIN.

Allan Beggs to be postmaster at Hudson, Wis., in place of Allan Beggs. Incumbent's commission expired February 7, 1910.

Hans P. Fuley to be postmaster at Hayward, Wis., in place of Robert C. Pugh. Incumbent's commission expired February 22, 1910.

Nels Nelson to be postmaster at Washburn, Wis., in place of Nels Nelson. Incumbent's commission expired April 5, 1910.

Emory A. Odell to be postmaster at Monroe, Wis., in place of Robert A. Etter. Incumbent's commission expired February 23, 1909.

Henry H. White to be postmaster at Lake Geneva, Wis., in place of Frank S. Moore. Incumbent's commission expired May 10, 1910.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 31, 1910.

PROFESSOR OF MODERN LANGUAGES.

Maj. Cornélis De W. Willcox to be professor of modern languages at the Military Academy.

PROMOTIONS IN THE NAVY.

Lieut. Charles T. Owens to be a lieutenant-commander.

Lieut. (Junior Grade) Winfield Liggett, jr., to be a lieutenant.

The following-named ensigns in the navy to be lieutenants (junior grade):

Winfield Liggett, jr., and
John F. Atkinson.

The following-named midshipmen to be ensigns:

James McC. Murray,
William F. Amsden,
Joseph Baer,
Charles C. Windsor,
Francis A. L. Vossler,
Forney M. Knox,
Seymour E. Holliday,
Chauncey E. Pugh,
Herman E. Welte, and
Ernest G. Kittel.

POSTMASTERS.

ARKANSAS.

George W. Burris, at Russellville, Ark.
John H. Hutson, at Heber Springs (late Heber), Ark.

CALIFORNIA.

George F. Wooderson, at Vacaville, Cal.

ILLINOIS.

David Young, at Braidwood, Ill.

INDIANA.

E. E. Parker, at Culver, Ind.

IOWA.

Frank M. Hoeye, at Perry, Iowa.

KANSAS.

Luther M. Axline, at Medicine Lodge, Kans.
Walter L. Colyer, at Belpre, Kans.
Herbert J. Cornwell, at St. John, Kans.
Zenas R. Detwiler, at Wamego, Kans.
George Manville, at Wathena, Kans.
Robert A. Marks, at Oberlin, Kans.
Mark Palmer, at Eskridge, Kans.

MAINE.

Thomas G. Herbert, at Richmond, Me.

MINNESOTA.

John S. Stensrud, at Canby, Minn.

MISSISSIPPI.

Felicie L. Delmas, at Pascagoula (late Scranton), Miss.
Benjamin R. Trotter, at Lucedale, Miss.
Neal M. Woods, at Water Valley, Miss.

MONTANA.

Thomas W. McKenzie, at Havre, Mont.
James R. White, at Kalispell, Mont.

NEW JERSEY.

John J. McGarry, at Edgewater, N. J.

NEW MEXICO.

Nicholas D. Meyer, at Estancia, N. Mex.

NORTH CAROLINA.

Jesse S. Basnight, at Newbern, N. C.
James F. Parrott, at Kinston, N. C.

NORTH DAKOTA.

Ellery C. Arnold, at Larimore, N. Dak.
Henry F. Speiser, at Fessenden, N. Dak.

OKLAHOMA.

W. F. Allen, at Pryor, Okla.
Logan G. Hysmith, at Wilburton, Okla.
John McFall, jr., at Ramona, Okla.

TENNESSEE.

T. B. Lomax, at Hohenwald, Tenn.
Roy P. Smith, at Clarksville, Tenn.
John D. Tarrant, jr., at Ripley, Tenn.
Daniel A. Tate, at South Pittsburg, Tenn.

WISCONSIN.

Hans P. Fuley, at Hayward, Wis.

WITHDRAWAL.

Executive nomination withdrawn from the Senate May 31, 1910.

N. L. Steele to be postmaster at Birmingham, in the State of Alabama.

INJUNCTION OF SECRECY REMOVED.

The injunction of secrecy was removed by the Senate from a treaty between the United States and Great Britain in relation to the location of the boundary line between the United States and the Dominion of Canada, through Passamaquoddy Bay, signed at Washington on May 21, 1910. May 25, 1910.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May 31, 1910.*

The House met at 12 o'clock noon.

The following prayer was offered by the Chaplain, Rev. Henry N. Couden, D. D.:

Our Father in heaven, we bless Thy holy name for the upward look, the higher resolve, the broader faith, the brighter hope, the stronger love, the firmer step, and the forward movement which characterizes our age, in spite of the alarmist, the ominous growls of the pessimist, the gloating song of the muckraker, and the cry of the demagogue in the press, on the platform, and in the pulpit. We most fervently pray for the real reformer, the true statesman, the pure patriot, the noble, generous, high-minded, sincere preacher, that their tribes may increase; and lead us onward to yet greater attainments; that Thy kingdom may come and Thy will be done on earth as it is in heaven, through Jesus Christ our Lord. Amen.

The Journal of the proceedings of Saturday last was read and approved.

OTHER THAN CIVIL WAR PENSIONS.

Mr. LOUDENSLAGER. Mr. Speaker, I call up the conference report on the bill (S. 5237) granting pensions to certain soldiers and sailors of wars other than the civil war and to certain widows and dependent relatives of such soldiers and sailors, and ask that the statement be read in lieu of the report.

The SPEAKER. The gentleman from New Jersey calls up the conference report and asks that the statement be read in lieu of the report. Is there objection? [After a pause.] The Chair hears none.

The statement was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to Senate bill 5237, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House on page 2, line 22, down to and including line 2 on page 3, and agree to the same.

H. C. LOUDENSLAGER,
WM. H. DRAPER,
WILLIAM RICHARDSON,
Managers on the part of the House.

REED SMOOT,
CHARLES CURTIS,
ROBT. L. TAYLOR,
Managers on the part of the Senate.

STATEMENT.

This bill as it originally passed the Senate contained provisions granting pensions and increase of pensions to certain soldiers and sailors of wars other than the civil war and to certain dependent relatives of such soldiers and sailors, and was passed by the House with amendment. This amendment was disagreed to by the Senate and a conference held. After full conference the conferees agreed as follows:

The Senate recedes from its disagreement to the amendment of the House on page 2, line 22, down to and including line 2 on page 3, and agree to the same.

H. C. LOUDENSLAGER,
WM. H. DRAPER,
WILLIAM RICHARDSON,
Managers on the part of the House.

Mr. LOUDENSLAGER. I move to agree to the conference report.

The question was taken, and the motion was agreed to.

Mr. LOUDENSLAGER. Mr. Speaker, I also call up the conference report of the bill (S. 5573) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and wars other than the civil war, and to certain widows of such soldiers and sailors.

The statement was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to Senate bill 5573, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House on page 2, striking out line 10 down to and including line 21, and agree to the same.

H. C. LOUDENSLAGER,
WM. H. DRAPER,
WILLIAM RICHARDSON,
Managers on the part of the House.

REED SMOOT,
CHARLES CURTIS,
ROBT. L. TAYLOR,
Managers on the part of the Senate.

STATEMENT.

This bill as it originally passed the Senate contained provisions granting pensions and increase of pensions to certain soldiers and sailors of wars other than the civil war and to certain dependent relatives of such soldiers and sailors and was passed by the House with amendments. These amendments were disagreed to by the Senate and a conference held. After full conference the conferees agreed as follows:

That the Senate recede from its disagreement to the amendment of the House on page 2, lines 10 to 12, inclusive, and agree to same.

That the Senate recede from its disagreement to the amendment of the House on page 2, lines 13 to 16, inclusive, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House on page 2, lines 17 to 21, inclusive, and agree to the same.

H. C. LOUDENSLAGER,
WM. H. DRAPER,
WILLIAM RICHARDSON,
Managers on the part of the House.

Mr. LOUDENSLAGER. Mr. Speaker, I move to agree to the conference report.

The question was taken, and the conference report was agreed to.

Mr. LOUDENSLAGER. Mr. Speaker, I also call up the conference report on the bill (S. 6272) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and wars other than the civil war, and to certain widows and dependent relatives of such soldiers and sailors.

The statement was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to Senate bill 6272, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment on page 3, line 7.